#### STATE OF CONNECTICUT

#### Governor M. Jodi Rell's Task Force on Contracting Reform



#### PERSONAL SERVICE AGREEMENTS WORKING GROUP

#### PRELIMINARY REPORT

#### August 16, 2004

#### Other source documents:

- A. Office of Policy and Management, *Personal Service Agreements*, September 1, 2002
- B. Office of Policy and Management, *Personal Service Agreements:* Standards and Procedures, DRAFT, June 18, 2004.
- C. Connecticut General Statutes, Title 4, Chapter 55a, Part II, Sections 212 thru 219, inclusive

#### Attachments

- Agenda, August 5, 2004
- Preliminary Issues List, August 5, 2004
- Brainstorming Issues List, August 5, 2004
- Meeting Summary, August 5, 2004
- Revised Issues List, August 6, 2004
- Agenda, August 11, 2004
- Meeting Summary, August 11, 2004

### PERSONAL SERVICE AGREEMENTS

Standards and Procedures

for

Requests for Personal Service Agreements

Personal Service Agreement Reporting Requirements

Requests for Proposals

# STATE OF CONNECTICUT OFFICE OF POLICY AND MANAGEMENT

Marc S. Ryan, Secretary

Pam Law, Deputy Secretary

#### STRATEGIC MANAGEMENT DIVISION

John A. Mengacci, Under Secretary

Effective September 1, 2002

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#### **Statutory Basis**

Connecticut General Statutes Sections 4-212 through 4-219 inclusive require that the Office of Policy and Management establish standards to be followed by executive branch agencies entering into personal service agreements. The attached document contains these standards.

Each executive branch agency has established written procedures for implementing the standards established by OPM. On and after July 1, 1994, no executive branch agency may execute a personal service agreement unless the Secretary of OPM has approved the procedures established by the agency.

#### **Glossary of Terms**

The following terms used in this document are defined as follows:

**Executed Personal Service Agreement** – a personal service agreement that has been signed by all parties, including the Office of the Attorney General, if applicable. No contractor should be working without an executed personal service agreement.

**OPM** - Office of Policy and Management

**Personal service agreement** - a written agreement defining the services or end product to be delivered by a personal service contractor to a state agency

**Personal service contractor** - any person, firm or corporation not employed by the state, who is hired by a state agency for a fee to provide services to the agency

The term personal service contractor does *not* include:

- a person, firm or corporation providing "contractual services," as defined in CGS Sec. 4a-50\*
- a consultant, as defined in CGS Sec. 4b-55\*
- a consultant, as defined in CGS Sec. 13b-20b\*
- an agency of the federal government, of the state or of a political subdivision of the state

**PSA** – personal service agreement

**Secretary** - the Secretary of the Office of Policy and Management

**State agency** - a department, board, council, commission, institution or other agency of the executive department of state government

\* Information on these statutory references can be found in the Appendix.

#### **Evaluating the Need for a Personal Service Agreement**

Before requesting the use of a personal service contractor, agencies are expected to consider alternatives such as:

- using agency staff
- requesting resources from other state agencies
- seeking non-compensated assistance from outside resources
- purchasing services on a cooperative basis with other state agencies

At times, the use of an outside personal service contractor may be specified by legislative mandate or by a federal agency.

The process for entering into a personal service agreement will depend on the dollar amount and the term of the proposed agreement. There are separate criteria for:

- agreements costing \$20,000 or less, and with a term of one year or less
- agreements costing over \$20,000 but \$50,000 or less, and with a term of one year or less
- agreements costing more than \$50,000
- agreements with a term of more than one year
- amendments
- bid solicitation that results in fewer than three acceptable bids

#### Personal Service Agreements with Individuals

Per Connecticut General Statutes Section 4a-7a(b) a personal service agreement between a state agency and an individual shall have a term of not more than one year. Note: Any such personal service agreement may be extended or renewed, for an unlimited term, provided the appropriate collective bargaining representative, the Commissioner of Administrative Services and the joint standing committee of the General Assembly having cognizance of matters relating to labor and public employees are notified of such extension and renewal.

Prior to contracting with an individual for personal services, an agency is responsible for determining if the characteristics of an employee/employer relationship exist. The Internal Revenue Service (IRS) has identified 20 factors that are used as guidelines to determine whether sufficient control is present to establish an employee/employer relationship. These IRS Common-law Rules are available in the Office of the State Comptroller Accounting Manual, Section 3.2 of Commitments, at

www.osc.state.ct.us/StateAcct/commitments/commitments.htm#COMMITMENT DOCUMENTS. If an individual does meet the characteristics of an employee, an agency should follow procedures for placing the individual on the agency payroll.

If the value of the PSA with an individual exceeds \$3,000 per fiscal year, the Department of Administrative Services (DAS) needs to determine if a waiver of the classified service is appropriate before the hiring of such individual.

If the individual is a State employee, in accordance with C.G.S. Section 5-208a, no state employee shall be compensated for services rendered to more than one state agency unless: the appointing authority of each agency or his designee certifies that the duties performed are outside the responsibility of the agency of principal employment; the hours worked at each agency are documented and reviewed to preclude duplicate payment; and no conflicts of interest exist between services performed.

#### Retired State Employees

Retired members of the State Employee Retirement System should not be placed on personal service agreements, they are to be placed on the regular payroll in 120 day positions. Retirees who are reemployed by the State can work no more than 120 working days in a calendar year without impairing their pension rights.

#### Code of Ethics for Public Officials and State Employees

The Guide to the Code of Ethics for Public Officials and State Employees issued by the Ethics Commission states that no former executive branch or quasi-public agency official or employee shall, for one year after leaving state service, represent anyone (other than the state) for compensation before the agency in which he or she was employed at the time of leaving state service, concerning any matter in which the state has a substantial interest. The Ethics Commission has established a policy to allow former state servants to enter into consulting and other employment contracts with their former agencies within the one-year period. Specifically, such conduct is permitted as long as the reemployment is at no greater pay level then the individual was receiving at the time of separation from state service plus necessary expenses.

#### Overview of the Review / Approval Process

Note: Personal Service Agreements with a cost of \$20,000 or less and a term of 1 year or less do not require review and approval by OPM.

The following situations require that request forms be submitted to OPM for review / approval before an agency can enter into a personal service agreement. Please remember that no contractor should be working without an executed personal service agreement.

Non-competitive agreements with a cost greater than \$20,000 require the submittal of the Request for Waiver from Competitive Solicitation form.

Agreements with a term of more than one year require the submittal of the Request for Personal Service Agreement form. If these agreements are non-competitive, the Request for Waiver from Competitive Solicitation form is also required.

Competitive agreements with a cost greater than \$50,000 require the submittal of the Request for Personal Service Agreement form.

Amendments to existing agreements require the submittal of the Request for Amendment form when:

- The cost of the original agreement was greater than \$50,000
- The amendment has a cost of one hundred percent or more of the cost of the original agreement
- The amendment increases the cost of the agreement to more than \$50,000
- The amendment extends the term of the agreement beyond one year
- The amendment is the second or subsequent amendment, regardless of cost

Requests must be complete when submitted. Incomplete requests will not be processed until all necessary information has been provided by the agency submitting the request.

The Office of Policy and Management shall approve or disapprove an agency's request within fifteen (15) business days after receipt of the request **and all necessary supporting information/documentation**. If action is not taken within the fifteen (15) day period, the request is deemed to be approved.

All request forms are to be submitted to:

The Office of Policy and Management Strategic Management Division – MS#54MGT 450 Capitol Avenue Hartford, CT 06106

### All Personal Service Agreements Cost: \$20,000 or Less, Term: One Year or Less

Personal Service Agreements with a cost of \$20,000 or less and a term of one year or less do not require review and approval by OPM.

Competitive Personal Service Agreements
Cost: Over \$20,000 but Less than \$50,000, Term: One Year or Less

Personal Service Agreements with a cost over \$20,000 but less than \$50,000 and a term of one year or less that are the result of a competitive selection process do not require review and approval by OPM.

Waiver from Competitive Solicitation Requirement for Personal Service Agreements
Cost: Over \$20,000, Term: One Year or Less
Cost: Any, Term: More than One Year

If an agency determines that a non-competitive solicitation is necessary, it must apply to the Secretary of OPM for a waiver from the competitive requirement by submitting the Request for Waiver from Competitive Solicitation form. Non-competitive contracting can occur only if the Secretary grants the requested waiver.

Services that may qualify for a waiver from the competitive requirement are:

- services for which the cost to the state of a competitive selection procedure would outweigh the benefits of such procedure, as documented by the state agency
- services for which the contractor has proprietary or patent rights
- services that are to be provided by a <u>contractor</u> who is mandated by the general statutes or a public or special act (<u>provide statutory reference</u>)
- emergency services, including services needed for the protection of life or health
- services provided by a contractor who has special capability or unique experience

An agency must provide **detailed substantial justification** when requesting a non-competitive selection.

NOTE: Along with the justification for selecting a contractor through a non-competitive process, an agency must document the process used to determine the proposed rate that will be paid to the contractor.

As stated on page 2 of this document, Connecticut General Statutes Section 4a-7a(b) states that a personal service agreement between a state agency and an individual shall have a term of not more than one year. Note: Any such personal service agreement may be extended or renewed, for an unlimited term, provided the appropriate collective bargaining representative, the Commissioner of Administrative Services and the joint standing committee of the General Assembly having cognizance of matters relating to labor and public employees are notified of such extension and renewal.

### All Personal Service Agreements Cost: Over \$50,000, OR Term: Over One Year

No state agency may execute a personal service agreement having a cost of more than \$50,000 or a term of more than one year without the approval of the Secretary of OPM. Approval must be sought before the development of a Request for Proposal.

A state agency may apply for approval from the Secretary by submitting the following information to OPM on the Request for Personal Service Agreement form:

- whether the agency intends to secure the services through a competitive process (if noncompetitive, a Request for Waiver from Competitive Selection must also be submitted)
- a description of the services to be purchased
- a description of the need for such services
- an estimate of the cost of the services
- the proposed term (start/end dates) of the agreement
- whether the services are to be on going
- whether the agency has contracted out for such services during the preceding two years and, if so,
  - the name of the contractor
  - o term of the agreement with such contractor
  - the amount paid to the contractor
  - o whether the services were obtained through a competitive process
- whether any other state agency has the resources to provide the services
- whether it is possible to purchase the services on a cooperative basis with other state agencies

As stated on page 2 of this document, Connecticut General Statutes Section 4a-7a(b) states that a personal service agreement between a state agency and an individual shall have a term of not more than one year. Note: Any such personal service agreement may be extended or renewed, for an unlimited term, provided the appropriate collective bargaining representative, the Commissioner of Administrative Services and the joint standing committee of the General Assembly having cognizance of matters relating to labor and public employees are notified of such extension and renewal.

#### Amendments to Personal Service Agreements

To amend a personal service agreement, an agency must request approval from OPM (Request for Amendment form) if:

- the cost of the original agreement was over \$50,000
- the amendment has a cost of one hundred per cent or more of the cost of the original agreement
- the amendment increases the cost of the agreement to more than fifty thousand dollars
- the amendment extends the term of the agreement beyond one year
- the amendment is the second or subsequent amendment regardless of cost

As stated on page 2 of this document, Connecticut General Statutes Section 4a-7a(b) states that a personal service agreement between a state agency and an individual shall have a term of not more than one year. Note: Any such personal service agreement may be extended or renewed, for an unlimited term, provided the appropriate collective bargaining representative, the Commissioner of Administrative Services and the joint standing committee of the General Assembly having cognizance of matters relating to labor and public employees are notified of such extension and renewal.

#### Reminders / Information to Keep in Mind when Completing PSA Requests

All personal service agreement request forms must be complete when submitted. Incomplete requests will not be processed until any requested information or clarification has been received from the agency.

OPM has 15 business days from the date a complete request is received in which to approve or disapprove the request. If additional information is requested from an agency, the 15-days do not begin until all additional information requested has been received by OPM.

**OPM will not approve requests for retroactive personal service agreements.** No contractor should be working without an executed PSA (signed by the Contractor, the Agency Head and the Attorney General's Office, if applicable). Requests should be submitted to OPM at least one month prior to the anticipated start date of a PSA.

**If a PSA has expired, it cannot be amended.** Review the status of your PSAs well in advance of the expiration date to determine the status and whether changes need to be made prior to the expiration date.

Provide a complete description of the services to be provided. Keep in mind that those reviewing your request may not be familiar with your program. Avoid using acronyms and technical terms without providing an explanation. Keep your explanation simple while providing enough information to give people an understanding of what will be done under the PSA.

Provide a complete explanation of the need for the services. If the services are required by statute, provide the statutory reference.

Provide an estimate of the cost of the PSA. This figure is a "not to exceed" figure. Also, provide the funding information (use account numbers, not word descriptions).

Regarding non-competitive PSAs, provide an explanation of any/all items checked on the form as justification. Provide as much information as possible. As competitive bidding is strongly recommended, the justification for a non-competitive PSA must be strong. If your reason for the non-competitive PSA is that the chosen contractor has special capability or unique experience, be sure to detail what makes this contractor uniquely qualified to perform these services.

Any question asked on the request forms must be answered. Not completing the form will result in processing delays.

Make sure the request form is signed before sending it to OPM for review.

#### Personal Service Agreement Reporting Requirements

## I. PSAs with a Cost of \$20,000 or less and a term of one year or less PSAs that fall under CGS Sec. 4a-50, 4b-55 and 13b-20b PSAs with Federal or State Agencies

For personal service agreement that fall within the above listed categories, information on activity must be provided to OPM by the end of January and July of each year for the preceding 6 months.

The reporting requirements are:

- 1. For each personal service agreement that is executed during the 6-month period:
  - o the name of the personal service contractor
  - o a description of the services to be provided
  - o the term (start/end dates) of the agreement
  - the cost of the agreement
  - the method of selecting the contractor
- 2. For each personal service agreement that is in effect during the 6-month period:
  - the amount of all payments made during the six-month period to the contractor, by funding source (agency/fund/SID)
  - o the amount of any federal or private funds allocated for such payments

### II. PSAs with a Cost of more than \$20,000 but not more than \$50,000 and a Term of One Year of Less

For personal service agreements that fall within this category, the following information must be provided to OPM at the same time the PSA is submitted to the Commissioner of the Department of Administrative Services or to the Attorney General:

- the name of the personal service contractor
- o a description of the services to be provided
- o the term (start/end dates) of the agreement
- the cost of the agreement
- the method of selecting the contractor
- o the state fund (agency/fund/SID) from which the contractor will be paid
- o whether any federal or private funds will be allocated for such payments

#### Agency Submittal of Required Reports

Information on personal service agreement activity will be reported to OPM by means of a spreadsheet that OPM has distributed to all agencies.

#### OPM Submittal of Required Report on Personal Service Agreement Activity

OPM will compile the information submitted by agencies on a fiscal year basis and provide a report on personal service agreement activity to the General Assembly.

Any agency not submitting the required data will be listed as non-compliant in the report.

#### Key Elements of a Request for Proposal

For proposals that are to be competitively bid, a Request for Proposal (RFP) must be developed.

The RFP shall include, but not be limited to:

- an outline of the work to be performed
- the required minimum qualifications for the contractor
- criteria for review of proposals by the agency
- the format for proposals
- the deadline for submitting proposals

#### Advertising for Personal Service Contractors

Once the Request for Proposal is drawn up, an agency should contact its Affirmative Action Officer, Purchasing Officer or the Department of Administrative Services for a current listing of minority vendors and media. This list can be found at <a href="https://www.das.state.ct.us/Purchase/SetAside/SAPVendor.asp">www.das.state.ct.us/Purchase/SetAside/SAPVendor.asp</a>.

Potential bidders need to be made aware of the request for proposals. In cases of services estimated to cost more than \$50,000, agencies need to advertise in appropriate publications (including minority media) considering circulation volumes and geographic areas.

A sample advertisement:

#### REQUEST FOR PROPOSAL

The state of Connecticut (*insert* Agency Name) is seeking proposals from contractors for (*insert* Project Name). The intent of this request is to identify firms with the necessary expertise to (*insert* a brief description of the purpose and scope of the service).

(Optional) A Bidders' Conference will be held (*insert* location, date, time).

Copies of the Request for Proposal may be obtained from (*insert* contact person, title, agency, address, telephone number). Deadline for response submission is (*insert* time, date).

Agencies should distribute the RFP to those requesting copies as a result of advertisements and to those on an applicable agency bidders list. RFPs should also be distributed to small contractors and minority vendors listed by the agency's Affirmative Action Office, Purchasing Office or the Department of Administrative Services.

It is essential to avoid giving one contractor any advantage over others. The process for contractors to get their questions answered should be clearly described. Answer questions concerning the RFP in writing to all interested vendors or at the Bidders' Conference.

Information on the requirements of the Commission on Human Rights and Opportunities (CHRO) for RFPs and bids can be found on the CHRO website (<a href="www.state.ct.us/chro/">www.state.ct.us/chro/</a>).

#### **Evaluating Proposals**

Proposals are to be evaluated by a screening committee set up by the agency. The committee must use the criteria described in the RFP, and each committee member must use the same format for rating all the valid proposals received.

#### Selecting a Contractor

At the end of the rating, the screening committee creates a ranked list using the point value and other rating criteria. The names of the top three proposers are to be sent to the agency head, who will decide which contractor receives the contract.

Consultants not selected should be notified and thanked for their interest and participation.

Agencies should submit the Contract Award Notice (<a href="www.state.ct.us/chro/metapages/ContractCompliance/CC">www.state.ct.us/chro/metapages/ContractCompliance/CC</a> forms/aa-cc1.pdf) to CHRO once the award has been made.

Reminder – Agencies should be aware they should comply with small business and set aside programs found in CGS 4a-60g when entering into PSAs. Each state contract should contain the nondiscrimination provisions found in CGS 4a-60(a) and CGS 4a-60a(a).

\* Information on these statutory references can be found in the Appendix.

#### Fewer than Three Acceptable Bids

If fewer than three proposals meeting the RFP requirements are received and the agency head selects a proposal with a cost exceeding \$50,000, the agency may not enter into a PSA with the contractor without written approval from the Secretary of OPM.

To obtain an approval, submit the Fewer than Three Acceptable Bids Received in Response to an RFP Form to OPM for review. The information provided on this form should show that the agency has taken all reasonable steps to obtain at least three bid proposals or to demonstrate that there are fewer than three qualified contractors available.

#### Managing Contracts

Agency management should assign a specific person to oversee each personal service agreement.

Responsibilities include but are not limited to:

- monitoring and reporting on the contractor's activities: work progress, costs to date, the current estimated completion date, problems encountered and solutions proposed
- assuring an adequate flow of accounting and program information
- ensuring appropriate agency assistance to the contractor
- keeping appropriate records to evaluate the contractor's performance
- completing the Personal Service Agreement Evaluation when the contract has been completed and making sure that it is included in the Agency contract file

#### **Evaluating Personal Service Contractor Performance**

Not later than 60 days after a personal service contractor completes work on a personal service agreement, the state agency shall prepare a written evaluation of the contractor's performance. These evaluations are to be kept as part of the agency contract file.

Please use the Personal Service Agreement Evaluation Form.

#### **Appendix**

#### Statutory References

**CGS Sec. 4a-50** - contractual services are defined as any and all laundry and cleaning service; pest control service; janitorial service; security service; the rental and repair, or maintenance, of equipment, machinery and other state-owned personal property; advertising and photostating; mimeographing; and other service arrangements where the services are provided by persons other than state employees. [The term "other service arrangements" is interpreted to mean services of a non-advisory, non-planning or non-developmental nature.]

CGS Sec. 4a-60(a) - Nondiscrimination and affirmative action provisions in contracts

**CGS Sec. 4a-60g** - Set-aside program for small contractors, minority business enterprises, individuals with disabilities and nonprofit corporations.

CGS Sec. 4a-60a(a) – Nondiscrimination on the basis of sexual orientation

**CGS Sec. 4b-55** - consultant is defined as any architect, professional engineer, landscape architect, land surveyor, accountant, interior designer, environmental professional or construction administrator, who is registered or licensed to practice the profession for which such person is licensed or registered in accordance with the applicable provisions of the general statutes, or any planner, construction manager or financial specialist. [The use of the term consultant is interpreted to mean consultants to the Department of Public Works]

**CGS Sec. 13b-20b** - consultant is defined as any architect, professional engineer, landscape architect, land surveyor or accountant who is registered or licensed to practice his profession in accordance with the applicable provisions of the general statutes, any planner or any environmental, management or financial specialist [The use of the term consultant is interpreted to mean consultants to the Department of Transportation.]

#### Personal Service Agreements with Individuals

- Per Connecticut General Statutes Section 4a-7a(b) a personal service agreement between a state agency and an individual shall have a term of not more than one year. Note: Any such personal service agreement may be extended or renewed, for an unlimited term, provided the appropriate collective bargaining representative, the Commissioner of Administrative Services and the joint standing committee of the General Assembly having cognizance of matters relating to labor and public employees are notified of such extension and renewal.
- Prior to contracting with an individual for personal services, an agency is responsible for determining if the characteristics of an employee/employer relationship exist. The Internal Revenue Service (IRS) has identified 20 factors that are used as guidelines to determine whether sufficient control is present to establish an employee/employer relationship. These IRS Commonlaw Rules are available in the Office of the State Comptroller Accounting Manual, Section 3.2 of Commitments, at www.osc.state.ct.us/StateAcct/commitments/commitments.htm#COMMITMENT DOCUMENTS. If an individual does meet the characteristics of an employee, an agency should follow procedures for placing the individual on the agency payroll.
- If the value of the PSA with an individual exceeds \$3,000 per fiscal year, the Department of Administrative Services (DAS) needs to determine if a waiver of the classified service is appropriate before the hiring of such individual.

• If the individual is a State employee, in accordance with C.G.S. Section 5-208a, no state employee shall be compensated for services rendered to more than one state agency unless: the appointing authority of each agency or his designee certifies that the duties performed are outside the responsibility of the agency of principal employment; the hours worked at each agency are documented and reviewed to preclude duplicate payment; and no conflicts of interest exist between services performed.

#### Retired State Employees

Retired members of the State Employee Retirement System should not be placed on personal service agreements, they are to be placed on the regular payroll in 120 day positions. Retirees who are reemployed by the State can work no more than 120 working days in a calendar year without impairing their pension rights.

#### Code of Ethics for Public Officials and State Employees

The Guide to the Code of Ethics for Public Officials and State Employees issued by the Ethics Commission states that no former executive branch or quasi-public agency official or employee shall, for one year after leaving state service, represent anyone (other than the state) for compensation before the agency in which he or she was employed at the time of leaving state service, concerning any matter in which the state has a substantial interest. The Ethics Commission has established a policy to allow former state servants to enter into consulting and other employment contracts with their former agencies within the one-year period. Specifically, such conduct is permitted as long as the reemployment is at no greater pay level then the individual was receiving at the time of separation from state service plus necessary expenses.

#### Contractors Should be Selected through a Competitive Process

All personal service agreements shall be based on competitive negotiation or competitive quotation whenever possible. If an agency decides to enter into a non-competitive personal service agreement that has a cost of more than \$20,000, the agency purchasing the services must apply to the Secretary of OPM for a waiver from such requirement. Non-competitive contracting can occur only if the Secretary grants the waiver request. (See the section of this document entitled Waivers from Competitive Solicitation on page 5 for further information.)

#### Requests Must Be Complete When Submitted to OPM

Requests for Personal Service Agreements shall be complete at the time of submission by an agency. Requests with incomplete information or documentation shall not be processed until all required information has been submitted by the agency.

#### **OPM Must Take Action Within 15 Business Days**

The Secretary shall approve or disapprove an agency's request for a personal service agreement within fifteen (15) business days after receipt of a complete request, including all necessary supporting information. If action is not taken within the fifteen (15) day period, the request is deemed to be approved.

#### Personal Service Contractor Evaluations

Not later than 60 days after a personal service contractor completes work on a personal service agreement the state agency shall prepare a written evaluation of the contractor's performance. These evaluations are to be kept as part of the agency contract file.

Please use the Personal Service Agreement Evaluation Form.

#### NEW PERSONAL SERVICE AGREEMENT REQUEST FORMS

The online versions of these forms, which should be used to submit requests, are located online at <a href="https://www.opm.state.ct.us/mgmt/psa/psaguide.htm">www.opm.state.ct.us/mgmt/psa/psaguide.htm</a>.

Prior to completing any of the request forms, refer to the internal personal service agreement procedures established within your agency.

To submit a request for personal service agreement:

- 1. Fill out the request form on the computer.
- 2. Print the form.
- 3. Have the form signed by the appropriate person at your agency.
- 4. Forward all requests to: The Office of Policy and Management

Strategic Management Division – MS#54MGT

450 Capitol Avenue Hartford, CT 06106

#### Description of the Forms

Request for Personal Service Agreement form – to be used for all proposed personal service agreements with an estimated cost of more than \$50,000 and for all agreements with a proposed term of more than one year, regardless of cost.

Request for Waiver from Competitive Solicitation – to be used for all proposed non-competitive agreements with a cost of more than \$20,000 and a term of one year or less, or for any agreement with a term of more than one year.

Request for Amendment form –to be used when requesting an amendment to an existing personal service agreement. The conditions for use are listed on the form.

Fewer than Three Acceptable Bids Received in Response to an RFP form –to be used to certify that appropriate steps were followed when conducting a competitive process to select a contractor.

Personal Service Contractor Evaluation form –to be used to evaluate contractor performance within 60 days of contract completion. This form is to be kept in the agency contract file.

#### REQUEST FOR PERSONAL SERVICE AGREEMENT

OPM Form/Rev. 01-13-03

Submit this form when requesting a personal service agreement with a cost greater than \$50,000 or a term greater than one year.			Log #		
or a term greater the	an one year.			C/O Date	
Return completed for Office of Policy and 450 Capitol Avenue					
into consulting and permitted, as long a state service plus fri their current calcula mindful that 120 day	other employment co as the re-employment inge benefits and nec ation of the value of y workers are conside	nmission policy has been establish ntracts with their former agencies was at no greater pay level than the essary expenses. Agencies are actfull-time state employee's fringe bettered state employees for purposes of the pur	vithin the one-year period individual was receiving lvised to directly consult we enefits in percentage terr of the Code of Ethics and t	. Specifically, suc at the time of sep vith the Comptrolle ms. Agencies sho therefore subject to	h conduct is aration from r's Office for ould also be o a one year
☐ Yes ☐ No ☐ employment.	N/A This cont	ract is in full compliance with	the State Ethics Comn	nission policy re	garding re-
Agency Name & A	ddress:				Date:
Requester's Name	e & Title:		Requester's Signature:		
Agency Contact &	Phone No.:		OPM Budget's Signature	ə:	
☐ Approved ☐	Disapproved	OPM Secretary's Signature:			Date:
☐ Yes ☐ No	Do other state ager Can the services be	individual? If yes, see Personal S ncies have the resources to provide purchased on a cooperative bas respective of contractor) be ongoi	de these services? is with other state agend		
☐ Yes ☐ No	Has the agency cor	ntracted out for these services du	ring the preceding two ye	ears?	
	<ul> <li>If yes, provide the f</li> <li>Type of Propos</li> <li>Name of Contra</li> <li>Term of Contra</li> <li>Cost of Service</li> </ul>	act:	evious contract: apetitive		
Current Proposal:	☐ Competitive ☐ If non-competitive,	Non-Competitive submit a "Request for Waiver fron	n Competitive Solicitation	n" along with this	form.
Name and Address	s of Contractor:				
Description of Serv	vices (Purpose, Sco	pe, Activities, Outcomes):			
Need for the Service	ces:				

Proposed Term of Contract (start/end dates):

Estimated Cost of Services:

Account (agency/fund/SID):

#### REQUEST FOR NON-COMPETITIVE PERSONAL SERVICE AGREEMENT

OPM Form/Rev. 01-15-03

Submit this form when requesting a personal service agreement with a cost greater than \$50,000 and fewer than three acceptable bids have been received in response to a RFP.

Return completed form to: Office of Policy and Management, Strategic Management Division – MS# 54MGT, 450 Capitol Avenue, Hartford, CT 06106

RESERVED FOR OPM USE
Date Rec'd
Log #
C/O Date

 $\square$  Yes  $\square$  No  $\square$  N/A This contract is in full compliance with the State Ethics Commission policy regarding reemployment.

#### \*\*\* Either the Agency Head or Deputy must sign this form. \*\*\*

Agency Name & Address:			Date:		
Requester's Name & Title:		Agency Head or Deputy's Signature:			
Agency Contact & Phone No.:		OPM Budget's Signature:			
☐ Approved ☐ Disapproved	OPM Secretary's Signature:		Date:		
☐ Yes ☐ No ☐ Is this PSA with an individual? If yes, see Personal Service Agreement Guidelines (page 2). ☐ Yes ☐ No ☐ Was the RFP advertised in appropriate publications? If no, attach explanation. ☐ Was a Request for Personal Service Agreement approved by OPM? If yes, attach copy. If no, explanation.					
Name and Address of Contractor:					
Description of Services (Purpose, Sco	pe, Activities, Outcomes):				
Need for the Services:					
Proposed Term of Contract (start/end	dates):				
Estimated Cost of Services:	Account (agen	cy/fund/SID):			

#### REQUEST FOR WAIVER FROM COMPETITIVE SOLICITATION

OPM Form/Rev. 01-15-03

(SOLE SOURCE)

Submit this form when requesting a non-competitive personal service agreement with a cost greater than \$20,000 (if the term of the agreement is one year or less) or a term greater than one year.

Return completed form to:
Office of Policy and Management, Strategic Management Division – MS# 54MGT,
450 Capitol Avenue. Hartford. CT 06106

RESERVED FOR OPM USE
Date Rec'd
Log #
C/O Date

450 Capitol Avenue, Hartford, CT 06106	gic Management Division – MS# 54	iwig i ,	L	
IMPORTANT NOTE: A State Ethics Corinto consulting and other employment copermitted, as long as the re-employment state service plus fringe benefits and nec their current calculation of the value of mindful that 120 day workers are considerestriction for a year after completing their 98-21.	ntracts with their former agencies of the street is at no greater pay level than the essary expenses. Agencies are actually full-time state employee's fringe beared state employees for purposes of the state employees. See State Ethic	within the one-year period.  individual was receiving lvised to directly consult wenefits in percentage terro  of the Code of Ethics and to  s Commission Advisory C	. Specifically, suc at the time of sep vith the Comptrolle ms. Agencies sho therefore subject to opinions 89-25 (An	ch conduct is paration from er's Office for ould also be o a one year nended) and
Yes No N/A This cont employment.	ract is in full compliance with	the State Ethics Comm	hission policy re	egarding re-
Agency Name & Address:				Date:
Requester's Name & Title:		Requester's Signature:		
Agency Contact & Phone No.:		OPM Budget's Signature	<b>9</b> :	
☐ Approved ☐ Disapproved	OPM Secretary's Signature:			Date:
Attach a separate sheet explaining if Acceptable reasons are listed below  The cost to the State of a competitive Services will be provided by a continuous Contractor will provide emergency Contractor has special capability, use	c. Check all that apply. ive solicitation process would outractor mandated by the CT Gene services, including those needed	weigh the benefits of suc ral Statutes, a public act, for the protection of life	ch a process. , or special act.	tion.
Name and Address of Contractor:				
Description of Services (Purpose, Sco	pe, Activities, Outcomes):			
Need for the Services:  Proposed Term of Contract (start/end of the contract)	dates):			
Estimated Cost of Services:	Acco	ount (agency/fund/SID):		

Attach a separate sheet explaining the process used to determine the proposed rate that will be paid to the contractor.

#### REQUEST FOR AMENDMENT

OPM Form/Rev. 01-15-03

Submit this form when requesting an amendment to an existing personal service agreement.

Return completed form to:
Office of Policy and Management, Strategic Management Division – MS# 54MGT,
450 Capitol Avenue. Hartford. CT 06106

RESERVED FOR OPM USE
Date Rec'd
Log #
C/O Date

450 Capitol Avenue, Hartford, CT 06106				
	nent contracts with their former ago employment is at no greater pay lee benefits and necessary expense loculation of the value of full-time so to day workers are considered station for a year after completing the	encies within the one-year pevel than the individual was. Agencies are advised to tate employee's fringe benear employees for purposes eir 120 day service. See	period. Specific s receiving at the o directly consul- efits in percenta of the Code of E State Ethics Co	ally, such ne time of t with the ge terms. Ethics and emmission
employment.				
Agency Name & Address:				Date:
Requester's Name & Title:		Requester's Signature:		
Agency Contact & Phone No.:		OPM Budget's Signature:		
Agonoy contact a mono rec.		or in Badget's dignature.		
☐ Approved ☐ Disapproved	OPM Secretary's Signature:			Date:
☐ Yes ☐ No ☐ Was the cost of the ☐ Yes ☐ No ☐ Is the cost of this a ☐ Yes ☐ No ☐ Does this amendment ☐ Yes ☐ No ☐ Yes ☐	individual? If yes, see Personal a original PSA more than \$50,000 mendment 100% or more of the cent increase the cost of the original ent extend the terms of the original or subsequent amendment to the	? ost of the original PSA? al PSA to more than \$50,0 al PSA beyond a one-year	000?	
Original Proposal:   Competitive	Non-Competitive Num	ber of Prior Amendments:		
Name and Address of Contractor:				
Description of Original Services (Purpo	ose, Scope, Activities, Outcomes)	:		
Description of Services of this Amendr	ment (Purpose, Scope, Activities,	Outcomes):		
Need for the Services of this Amendm	ent:			
Term of Original Contract (start/end da Proposed Term of this Amendment (st				
Cost of Original Services:	Acco	ount (agency/fund/SID):		

Account (agency/fund/SID):

Note: Total Cost of Services = Cost of Original Services + Cost of All Amendments.

Attach a separate sheet explaining the reasons for not issuing a new Request For Proposal.

Cost of Services of Prior Amendment(s): Estimated Cost of Services of this Amendment:

Total Cost of Services:



**DRAFT**Version 4

## State of Connecticut OFFICE OF POLICY AND MANAGEMENT

## PERSONAL SERVICE AGREEMENTS Standards and Procedures

Marc S. Ryan, Secretary Office of Policy and Management 450 Capitol Avenue Hartford, Connecticut 06106

Issued June 18, 2004

State of Connecticut DRAFT

#### IMPORTANT NOTICE

This document supersedes OPM's publication entitled, "Personal Service Agreements," effective September 1, 2002.

#### **MEMORANDUM**

To: Heads of Executive Branch State Agencies

From: Marc S. Ryan, Secretary

Office of Policy and Management

Date:

**Subject:** Revised PSA Standards and Procedures

This publication contains revised standards and procedures for Personal Service Agreements (PSAs) as they apply to Executive Branch Agencies. The standards and procedures become effective on DATE. Revised forms for PSA requests are available on OPM's website and must be used for all requests submitted to this Office on and after DATE.

The revised standards and procedures are available in electronic format on OPM's website at http://WEB ADDRESS. As appropriate, please direct your staff to download and retain the publication for future reference. The revised PSA forms are available at the same web address. Upon request, OPM can also provide the documents on a floppy disk.

In accordance with C.G.S. § 4-217, please submit a memo by DATE, indicating that OPM's revised standards and procedures have been incorporated into your agency's written procedures. The memo should be addressed to Gale Mattison, Executive Finance Officer, Office of Finance, Office of Policy and Management, 450 Capitol Avenue MS# 55FIN, Hartford, CT 06106.

Any questions may be directed to Wanda Dupuy, Office of Finance, (860) 418-6261 or to Gale Mattison, Office of Finance, (860) 418-6422.

Thank you for your attention and cooperation.

cc: Chief Fiscal Officers **Agency Fiscal Contacts**  State of Connecticut DRAFT



## PERSONAL SERVICE AGREEMENTS Standards and Procedures

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#### INTRODUCTION

#### 1. Purpose

A *Personal Service Agreement* (PSA) is a duly executed and legally binding contract that defines a service or end product to be delivered by a *Personal Service Contractor* (hereafter "Contractor") to a *State agency*. By law, no State agency may hire a Contractor without first executing a PSA.

The purpose of this document is two-fold: (1) to explain the requirements for Personal Service Agreements set forth in the Connecticut General Statutes, and (2) to establish and explain the Office of Policy and Management's standards for Personal Service Agreements.

This document begins with an overview of the entire PSA process – from start to finish. The overview is followed by the three main sections of this document, each of which addresses one of the principal phases of the PSA process.

The principal phases of the PSA process are as follows:

• Phase I: Preparation

Sections 9-18 explain the requirements and standards for evaluating the need for a PSA, for developing an *outline of work*, and for obtaining approvals from OPM to enter into a PSA.

• Phase II: Request For Proposals

Sections 19-39 explain the requirements and standards for conducting a Request For Proposal process that results in the selection of a Contractor.

Phase III: Contracting

Sections 40 – 48 explain the requirements and standards for obtaining additional approvals from OPM to enter into a PSA, as well as for monitoring, evaluating, reporting, and amending a PSA.

Not included in the term "Personal Service Contractor" are the following:

- (a) a person, firm or corporation providing contractual services to the State, as defined in C.G.S. § 4a-50;
- (b) certain consultants hired by the Department of Public Works, as defined in C.G.S. § 4b–55;
- (c) certain consultants hired by the Department of Transportation, as defined in C.G.S. § 13b–20b;
- (d) agencies of the federal government, State government, or political subdivisions of the State; and
- (e) certain consultants hired by the Department of Information Technology, as defined in C.G.S. § 4d–2(c)(5).

C.G.S. § 4–212 defines who is *included* and who is *not included* in the term "Personal Service Contractor." *Included is* "any person, firm or corporation not employed by the State, who is hired by a State agency for a fee to provide services to the agency."

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#### Important Note

➤ Be advised that the requirements and standards contained herein *do not apply* to Purchase of Service (POS) contracts. A POS contract is used to purchase direct human services from private providers. Such contracts are used for ongoing and routine services for a State agency's clients or for operating a State program. A PSA is used to purchase general professional advice and services from individuals, firms, and corporations that do not fall under the POS category.

#### **Statutory Reference and Authority**

A State agency wishing to enter into a PSA must adhere to the requirements set forth in the Connecticut General Statutes, Title 4, Chapter 55a, Part II, Sections 212 thru 219, inclusive. Section 4-217 requires the **Secretary** of the Office of Policy and Management (OPM) to establish standards for State agencies to follow when entering into a PSA. Pursuant to this statute, the standards must include, but are not limited to, (1) evaluating the need for a PSA, (2) developing a *Request For Proposals*, (3) advertising for Contractors, (4) evaluating submitted proposals, (5) selecting a Contractor, (6) monitoring and evaluating Contractor performance, (7) documenting the process for selecting and managing Contractors, and (8) carrying out any other aspect of such process.

Also pursuant to Section 4-217, each agency must establish written procedures for implementing the standards established by OPM's Secretary. The written procedures must be submitted to the Secretary for approval. Upon receiving the Secretary's approval, an agency may enter into a PSA based on the approved procedures. If the Secretary disapproves an agency's procedures, OPM must return them to the agency with recommendations for revisions. No State agency may enter into a PSA unless the Secretary has approved the procedures established by an agency.



#### Important Note

- > These standards and procedures for PSAs, established by the Secretary of OPM under the authority of Section 4-217 of the Connecticut General Statutes, are not meant to address all requirements imposed by other State offices or agencies pertaining to PSAs. Each agency must determine for itself whether it is subject to additional contracting standards or procedures beyond those established by the Secretary and how best to comply with those requirements. Information provided here about the requirements of other State agencies (e.g., Office of the Attorney General, Department of Administrative Services, Commission on Human Rights and Opportunities) may not be current, complete, comprehensive, or up to date. If questions of law or compliance with statutory or regulatory guidance arise during the PSA, an agency should seek the advice of legal counsel.
- (i) More Information Attachment AA, "PSA Statutes," page 116

#### **User Notes**

- This document supersedes OPM's publication entitled, "Personal Service Agreements," effective September 1, 2002.
- Certain key words are defined and used as follows in this document:

SHALL and MUST indicate tasks or actions required by State statutes or OPM's standards and procedures for PSAs (established herein).

SHOULD indicates tasks or actions that are recommended, but not required, by State statutes or OPM's standards and procedures for PSAs. An agency may have a valid reason for disregarding a recommendation, but the implications should be understood and carefully weighed before choosing a different course of action.

MAY indicates permissible, but not required, tasks or actions. These actions are truly optional.

CAN means "am (is, are) able." It is not used as a substitute for MAY.

WILL indicates anticipated or future actions, not required actions.

- On their first use, specialized terms are displayed in **bold italic text**. Their meanings are given in the Glossary. It is recommended that the reader review the Glossary before reading the overview and main sections of the document.
- The Appendices provide supplementary information about PSAs, as well as several sample documents that State agencies may adapt for their own use. The State laws, forms, and contract compliance documents pertaining to PSAs are also attached for informational purposes.
- Icons:
  - Two pages indicate that a sample document is available in the appendices.
  - A red flag indicates an aspect of the PSA process that warrants extra attention.
  - ✓ A *check mark* indicates a "to do" list for a phase of the PSA process.
  - (i) A circle with the letter "i" indicates more information is available in the appendices or attachments.

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#### 4. Acronyms and Abbreviations

AG	Attorney General (Office of the Attorney General)
C.G.S.	Connecticut General Statutes
CHRO	Commission on Human Rights and Opportunities
DAS	Department of Administrative Services
FOIA	Freedom of Information Act
FOIC	Freedom of Information Commission
IRS	(U.S.) Internal Revenue Service
OPM	Office of Policy and Management
OSC	Office of the State Comptroller
POS	Purchase of Service
PSA	Personal Service Agreement
RFP	Request For Proposal

#### 5. OPM Contacts

For more information about the OPM's standards and procedures for PSAs, contact Wanda Dupuy, Office of Finance, (860) 418-6261, email: wanda.dupuy@po.state.ct.us or Gale Mattison, Office of Finance, (860) 418-6422, email: gale.mattison@po.state.ct.us.

This document is also available in electronic format on OPM's website. The address is http://WEB ADDRESS.

#### STANDARDS AND PROCEDURES ■ Overview

#### 6. PSA Process

A typical PSA process has three distinct phases:

• Phase I: Preparation

An agency must first evaluate its need to contract out for a service. If the agency decides to contract out, it must develop an outline of work describing the PSA's purpose, scope, activities, and expected outcomes. Depending on the anticipated cost and term of the PSA, an agency may be required to apply to OPM for approval to enter into a PSA. If State statutes require an agency to select a Contractor through a *competitive negotiation* (i.e., an RFP process), an agency must do so -or— it may request a waiver from this requirement from OPM.

• Phase II: Request For Proposals

When required by State statutes, an agency conducts an RFP process to select a Contractor. There are six major steps in a typical RFP process: (1) organizing a *Team* to conduct the process; (2) writing the RFP document; (3) writing an *evaluation plan*; (4) issuing the RFP; (5) reviewing the *proposals* submitted in response to the RFP; and (5) selecting the Contractor.

• Phase III: Contracting

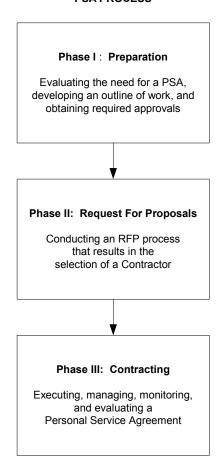
After selecting a Contractor, an agency must negotiate and execute a PSA. In certain cases, the PSA must be reviewed and approved by the Department of Administrative Services (DAS) and the Attorney General's Office. Once work begins, an agency is required to manage the Contractor, and monitor and evaluate the Contractor's performance. An agency must submit a semi-annual report on its PSA activity to OPM.

#### 7. PSA Flowchart

The diagram below provides an overview of the PSA process, which has three major phases. Phase I pertains to obtaining approvals from OPM, Phase II pertains to conducting a Request For Proposals (RFP) process, and Phase III pertains to contracting.

The diagram also reflects the organization of this document, which is divided into three main sections. Each section explains in detail a phase of the PSA process.

#### **PSA PROCESS**



### 8. PSA Tasks and Timeline

The table below displays estimated timelines to complete a simple and complex PSA process. If an agency is not required to conduct an RFP process, the time estimated for Phase II would be subtracted from the total number of weeks.

All Phases		Estimated Timelines	
		Simple PSA	Complex PSA
• Phase I:	Preparation	4 weeks	6 weeks
• Phase II:	Request for Proposals	6 weeks	12 weeks
• Phase III:	Contracting	4 weeks	6 weeks
Total		14 weeks	24 weeks

### STANDARDS AND PROCEDURES ■ Phase I: Preparation

# 9. Phase I Summary

At the outset of any new project, an agency needs to have a clear idea of what it wishes to accomplish. This vision of the future, so to speak, can best be expressed through a written *outline of work* that describes the project's purpose, scope, activities, expected outcomes, and timeline.

Once a satisfactory outline of work is written, an agency then can determine the best way to proceed. Before engaging an outside Contractor, State statutes require that an agency evaluate the need for a PSA. This means that an agency must consider alternative ways of achieving the desired results (besides entering into a PSA). If an agency determines that no alternative way exists, then hiring a Contractor becomes an option. The agency must determine what the cost and term would be to enter into such a contract.

Depending on the cost and term of the PSA, an agency may be required to conduct a competitive negotiation (i.e., an RFP process) to select a Contractor. The purpose of an RFP process is to secure the best services at the lowest possible cost. If, however, an agency wishes to make a *sole source* purchase (meaning that it wishes to select a Contractor without conducting an RFP process when one is required), an agency may apply to OPM for a waiver from the requirement. If approved, the agency may make the sole source purchase. If disapproved, the agency must conduct an RFP process to select a Contractor. Also depending on the cost and term of the PSA, an agency may be required to apply to OPM for approval to enter into a PSA.

The table below summarizes when the anticipated cost and term of a PSA requires an agency to conduct an RFP process and when an agency must obtain approvals from OPM.

#### **PSA REQUIREMENTS**

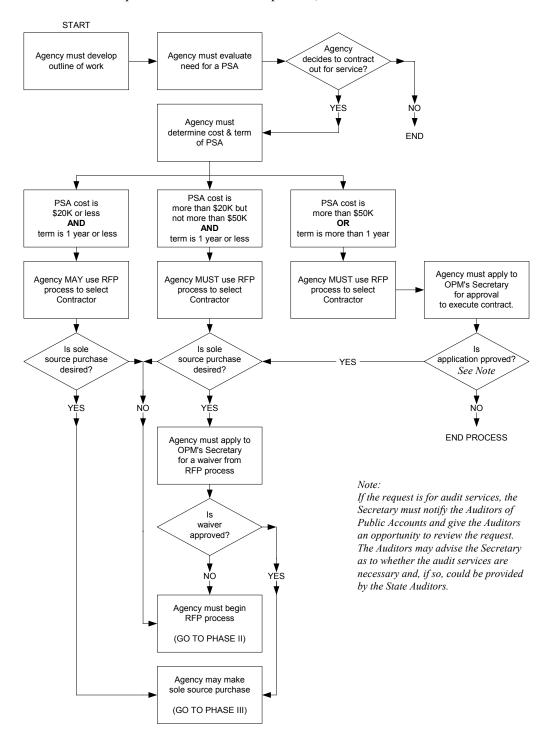
COST	\$0.01 - \$20,000.00	\$20,000.01 - \$50,000.00	\$50,000.01 and up
	- and -	- and -	- or -
TERM	1 year or less	1 year or less	More than 1 year
RFP	Recommended, but not required, to select Contractor.	Required to select Contractor.*	Required to select Contractor.*
OPM APPROVAL	None required.	None required.	Required to enter into contract.

<sup>\*</sup> An agency may apply to OPM for a waiver from this requirement.

Phase I: Preparation 13

# 10. Phase I Flowchart

This flowchart depicts Phase I of the PSA process, as summarized in Section 9 above.



#### 11. Phase I Tasks

Below is a checklist of all the tasks in Phase I. Information about "required" tasks is located in this section of the document. An agency must complete all required tasks.

✔ Phase I Tasks		
Develop outline of work	raquirad	Section 13
☐ Develop outline of work	required	~
☐ Evaluate need for PSA	required	Section 14
☐ Determine cost and term of PSA	required	Section 15
☐ Determine status of individual Contractor	required	Section 16
☐ Obtain prior approvals from OPM:		
O To begin RFP process	required*	Section 17
O To waive RFP process	required*	Section 18
☐ Open project file	required	Section 19

<sup>\*</sup> Special circumstances apply.

### 12. Phase I Timeline

Phase I Tasks	Estimated Timeline	
	Simple RFP	Complex RFP
• Develop outline of work	2 days	2 weeks
• Evaluate need for PSA	2 days	1 week
• Determine cost and term of PSA	2 days	2 days
• Determine status of individual Contractor	1 day	1 day
<ul> <li>Obtain OPM approvals*</li> </ul>	3 weeks	3 weeks
• Open project file	1 day	1 day
Total	4 weeks	6 weeks

# 13. Outline of Work

At the outset of any new project, an agency must develop an outline of work describing what it wishes to accomplish. A thoughtful, carefully written outline of work describes the project's purpose, scope, activities, expected outcomes, and timeline.

The outline is "written to suit." In other words, it is tailored to fit the requirements of the situation at hand. If the project is difficult or costly, the outline of work may be longer and more detailed. If the project is fairly straightforward or inexpensive, the outline may be

shorter and less detailed. A well-written outline should anticipate and answer all the fundamental questions pertaining to the project.

At a minimum, the outline of work must include the following information:

- *Purpose* What is the need for the service? What underlying opportunity or deficiency does it address? What problem is the agency attempting to solve?
- *Scope* What is included (in the service provision)? What is excluded?
- *Activities* What does the agency want done? What functions, duties, or tasks are required? What work is to be performed?
- Outcomes What are the expected results? What will be the beneficial effects of the service? What will be the tangible (e.g., reports, plans) or intangible (e.g., services, processes) accomplishments of the provided service?
- *Timeline* When, and in what sequence, will the work be done? Are there any important milestones? What are the deadlines?
- (i) More Information

Appendix A, "How to Develop the Outline of Work," page 66 Appendix B, "How to Determine the Deliverables," page 67

### 14. Evaluating Need for PSA

According to State statutes, before engaging a Contractor to provide a service, an agency must evaluate the need for a PSA. To do such an evaluation, an agency should first clearly define what the needed service is and explain why it is necessary. An agency should then explore alternative ways of obtaining the service (besides engaging a Contractor). The idea is to identify any available "low cost" or "no cost" sources for the service so as to avoid having to contract out

One obvious option is for an agency's own employees to provide the service. If an agency's employees do not have the necessary expertise or are already fully committed to other responsibilities, this option may not be feasible. An agency should also consider whether another State agency has the resources to provide the service or whether it is possible to purchase the service on a cooperative basis with other State agencies. This may not be possible if other State agencies do not share similar interests or a willingness to partner in obtaining the service. Another possibility is for an agency to seek non-compensated assistance from an external source – such as an academic institution or private entity – that wishes to contribute the service pro bono (for the public good).

If unable to meet its service needs through any alternative means, an agency may have a legitimate reason for engaging a Contractor. That said, there should be a "value-added" benefit to support this decision. Sometimes a simple cost-benefit analysis is sufficient to

justify the PSA, if the service need is easily quantifiable. At other times, the "value-added" benefit cannot be quantified and a business case should be developed to establish the merits and desirability of contracting out. The scope and magnitude of such an analysis should be driven by the size, complexity, length, and importance of the service involved. A multi-year, high-cost service with a wide impact calls for a more rigorous analysis than a service of short duration having a relatively low cost and narrow impact. In either case, before engaging a Contractor, the agency should establish that the benefits of such a decision clearly outweigh the associated costs.

The three most common reasons for engaging a Contractor are (1) the need for outside expertise, (2) the lack of internal resources, and (3) the need for independent judgment or objectivity. In terms of expertise, a Contractor can provide special skills or knowledge that an agency's regular, full-time employees do not possess. In terms of resources, a Contractor can provide a needed service without diverting the efforts of regular employees who may be heavily committed to other responsibilities. In terms of objectivity, a Contractor can provide an unbiased view of an agency's operations, identify problem areas, and suggest improvements.

When the use of a Contractor is required by a State or federal mandate, an agency is not required to evaluate the need for a PSA.

If an RFP is required to select a Contractor, the outline of work must be developed without the involvement of any person, firm or corporation that could potentially submit a proposal in response to the RFP — including any current Contractor providing the same or similar service to an agency.

#### 15. Cost and Term

Once the decision to contract out is made, an agency must determine the anticipated cost and term of the PSA. Depending on the cost and term, a competitive negotiation (RFP) or OPM's approval may be required.

# ■ Cost

An agency must develop a cost estimate for the PSA. Sometimes top management decides the maximum amount of funding available for the contract, thus setting the PSA cost. At other times, the service is decided first and then the cost is determined. The cost may be determined using any method an agency deems appropriate, but it must be expressed as a "not to exceed" amount.

Pursuant to State statutes, any PSA with an anticipated cost of more than \$20,000 requires a competitive negotiation (RFP) process. Any PSA having an anticipated cost of more than \$50,000 also requires prior approval from the Secretary of OPM.

When an agency is required to conduct an RFP process, the anticipated cost of the PSA is generally not revealed. The cost is typically held in confidence by Team members and other individuals who are privy to this information. However, under certain circumstances, it may be in an agency's best interest to reveal the cost. For example, when limited funds are

available, revealing the cost serves as an initial screen. Only those Proposers who are willing to accept the stated amount to perform the service would submit proposals.

# ■ Term

Under State statutes, a PSA between a State agency and an *individual* shall not have a term of more than one year. Any such PSA may be extended or renewed, for an unlimited term, provided certain entities are notified of the extension or renewal. The entities that must be notified are the appropriate collective bargaining representative, the Commissioner of DAS, and the joint standing committee of the General Assembly having cognizance of matters relating to labor and public employees [C.G.S. § 4a-7a(b)]. A PSA between a State agency and a *firm or corporation* may have any term.

Pursuant to State statues, any PSA with an anticipated term of more than one year requires a competitive negotiation (RFP) process, unless OPM approves an agency's request for a waiver of this requirement. Any PSA having an anticipated cost of more than one year also requires prior approval from the Secretary of OPM.

(i) More Information

Appendix C, "How to Develop a Cost Estimate," page 68 Appendix D, "How to Determine the Contract Term," page 68

#### 16. PSAs with Individuals

As stated previously, an agency may enter into a PSA with an individual, firm or corporation. The nature of the relationship that would exist between an agency and an *individual* – in the event one is selected as a Contractor – must be determined before conducting an RFP or entering into a PSA. To make this determination, an agency needs to ask itself this question: Would the individual be a *independent Contractor* or an *employee*?

The U.S. Internal Revenue Service (IRS) has identified twenty (20) factors to be used as guidelines in answering this question. The general rule is that an individual is an independent Contractor if the employing agency has the right to control or direct only the result of the work and not the means and methods of accomplishing that result. An employee is defined as any individual who performs services subject to the will and control of the employing agency, as to both what must be done and how it must be done.

Why is this important? The State is not required to deduct and withhold taxes on payments made to independent contractors; it must do so for employees. Paying an individual as an independent Contractor when the individual should be paid as an employee is illegal and renders the State and agency liable to pay the required taxes and any imposed penalties. If it is determined that an employer–employee relationship would exist, an agency must follow established procedures for placing the individual on the agency's payroll and *not* enter into a PSA with the individual.

It is the responsibility of the agency to determine the status of an individual Contractor. For more information, see the Office of the State Comptroller's Memorandum No. 94-9,

"Determining a Worker's Status," (April 8, 1994). The memorandum explains the IRS's rules in detail, along with the twenty factors that an agency must consider when making such a determination. A copy of the memorandum is available on the Comptroller's website at http://www.osc.state.ct.us/memoarchives/9094memos/memo9409.htm.



# Important Note

> Agencies must not enter into a PSA with anyone who has retired from Connecticut State service. If an agency wishes to employ a retiree, the individual must be placed on the regular payroll in a 120-day position. Retired members of the State Employees Retirement System who are reemployed by the State can work no more than 120 days (960 hours) in a calendar year without impairing their pension rights. In the event they work more than 120 days, such members must reimburse the retirement fund for all retirement income payments received during the period of reemployment. For more information, see Office of Labor Relations, General Notice 2003-15: Reemployment of Retired Employees (April 9, 2003).

# 17. OPM Approvals

There are two situations when an agency must apply to the Secretary of OPM for prior approval. The first is for a sole source purchase; the second is for any PSA with a cost of more than \$50,000 or a term of more than one year.

#### ■ Sole Source Purchase

When a PSA has an anticipated cost of more than \$20,000 OR an anticipated term of more than one year AND an agency wishes to make a sole source purchase, an agency must obtain prior approval from OPM before discussions are held with any Contractor.

To apply for approval for a sole source purchase, an agency must submit OPM's form entitled "Request For Waiver From Competitive Solicitation" to the Secretary. An electronic version is available on OPM's website at http://WEB ADDRESS.

Any reason given as justification for the sole source purchase (i.e., any checked box on the form) must be explained in detail. Along with the justification, an agency must explain the process used to determine the proposed rate that the Contractor will be paid. The waiver request form should be submitted to OPM at least one month before the anticipated start date of a PSA. In the case of emergency services, an agency may request an expedited decision on the request.

The services that may qualify for a waiver include, but are not limited to:

- (a) services for which the cost to the State of a competitive selection process outweighs the benefits of such a process, as documented by the State agency;
- (b) services provided by a Contractor mandated by the Connecticut General Statutes or by a Public or Special Act;
- (c) emergency services, including those needed for the protection of life or health; and
- (d) services provided by a Contractor having special capability, unique experience, proprietary services, or patent rights.

Phase I: Preparation 19

The Secretary has adopted the following guidelines for determining the types of services that may qualify for a waiver from competitive solicitation:

The Secretary shall organize a committee comprised of three Under Secretaries or Directors from the Office of Policy and Management. The committee shall be called the Standardization Committee and shall have responsibility for reviewing all agency requests for waivers from competitive solicitation submitted to the Secretary by State agencies. The Under Secretaries or Directors selected to serve on the committee shall have considerable knowledge of the PSA standards and procedures established by OPM and shall have considerable experience with Requests For Proposals. On a simple majority vote of its members, the committee may ask an agency to submit additional information to explain a waiver request. Each member of the committee shall vote either to accept or reject an agency's request. The outcome shall be determined by a simple majority vote and documented in writing. Depending on the outcome, the committee shall make a recommendation to the Secretary to approve or disapprove a waiver request. The Secretary shall make the final decision on all waiver requests. If the Secretary approves a waiver request, an agency may enter into a sole source purchase with a Contractor. If the Secretary rejects a waiver request, an agency must select a Contractor through a competitive negotiation (RFP) process.

#### ■ PSA of More than \$50K or More than 1 Year

When a PSA has an anticipated cost of more than \$50,000 OR an anticipated term of more than one year, an agency must obtain prior approval from OPM before an RFP can be issued.

To apply for approval in this situation, an agency must submit OPM's form entitled, "Request For Personal Service Agreement" to the Secretary. An electronic version of this form is available on OPM's website at http://WEB ADDRESS. If the Secretary approves the request, an agency may proceed to Phase II (i.e., the RFP process). If the request is denied, an agency must not proceed further.

If the request is for audit services, the Secretary must notify the Auditors of Public Accounts and give the State Auditors an opportunity to review the request. The State Auditors may advise the Secretary as to whether the audit services are necessary and, if so, could be provided by the State Auditors.



# Important Notes

- > Submit original request forms to: Office of Policy and Management, Office of Finance – MS# 55FIN, 450 Capitol Avenue, Hartford, CT 06106-1308.
- All request forms must be complete when submitted. Request forms must be signed by the appropriate authority. An incomplete or unsigned request will not be processed and will be returned unapproved to the requesting agency.
- > When completing a request form, keep in mind that those reviewing the request may not be familiar with the service. Provide enough information to enable those reviewing the request to understand what the Contractor will do. Explain any acronyms and technical terms used on the forms or accompanying documents.

- ➤ If a service is required by statute, provide the statutory reference.
- Indicate the term and anticipated cost of the PSA. The cost is a "not to exceed" amount. Also, indicate the funding source using account numbers (not word descriptions).
- ➤ No Contractor shall begin work without a fully executed PSA in place. A fully executed PSA is one that has been signed by the Contractor, the *Agency Head* and, if applicable, reviewed and approved by DAS and the Attorney General's Office. It is OPM's policy not to approve requests for "retroactive" PSAs.
- (i) More Information Attachment DD, "PSA Forms," page 128

# 18. Project File

An agency must establish an official *project file* once the decision is made to enter into a PSA. The project file must contain all the essential documents related to the Contractor selection process. The contents of the file must be detailed enough to enable someone with no knowledge of the process to reconstruct an accurate account of what occurred (such as a State auditor).

If a competitive negotiation is not required and an agency selects a Contractor through a sole source purchase, the project file must include, but is not limited to, the following:

- approvals from DAS (if required);
- approvals from OPM (if required);
- approvals from the AG's office (if required);
- original contract;
- contract amendments (if any); and
- Contractor evaluation form.

If an agency conducts a competitive negotiation (RFP) process to select a Contractor, the project file must also include, but is not limited to, the following:

- approvals from OPM (if required);
- the RFP document, including any amendments;
- the *legal notice* and advertising placements (if any);
- any mailing list used to distribute the legal notice;
- the names of the Screening Committee's members;
- any written questions from *Proposers* and the agency's written answers;
- a list of attendees at the **Proposers' conference** (if any);
- an audio recording, transcript, notes, or minutes of the Proposers' conference (if any);
- copies of all RFP-related correspondence, including email;
- the evaluation plan, including any amendments;
- all Proposals submitted before the deadline:
- any affidavits and certifications required under Public Act 04-245 and Governor M. Jodi Rell's Executive Order No. 1;

- all *rating sheets* used for reviewing proposals;
- forms or notes used to check references;
- the list of final rankings;
- the Screening Committee's written report to the Agency Head; and
- documentation pertaining to the selection (or not) of a Contractor.

The project file is required for three reasons:

- (1) Per State statutes, OPM's standards must include a provision requiring State agencies to document the entire process for selecting and managing a PSA Contractor. Creating and maintaining an official project file satisfies this statutory requirement.
- (2) State statutes further require each agency to maintain certain records used in the conduct of agency business. A PSA falls under the category of "agency business." Agency records must be maintained for prescribed lengths of time (according to a "retention schedule") until they are destroyed or archived. Each agency has a Records Management Liaison Officer who coordinates the records retention and management activities for the agency. Additional information is available from the Connecticut State Library, which has the authority and responsibility for administering the Public Records Management Program. The Library has published a "Records Management Manual" [March 1999] with all the statutes, policies, and procedures pertaining to the program. The information is also available on the Library's website at http://www.cslib.org/recstate.htm.
- (3) Having an official project file will make it easier for an agency to respond to any requests for information under the Freedom of Information Act (FOIA).

At the end of the contracting process, all original documents (listed above) must be retained and placed in the project file. Any duplicate copies may be retained by Team members or destroyed. Team members should not have any original documents in their possession at the conclusion of the process.

# STANDARDS AND PROCEDURES ■ Phase II: Request For Proposals

# 19. Summary of Phase II

State statutes recommend – and at times require – that a PSA be based on a competitive negotiation (RFP) or *competitive quotation*. If the cost of an anticipated PSA is more than \$20,000 or the term is more than one year, an agency must conduct an RFP process to select a Contractor. The process entails an agency soliciting proposals from qualified individuals, firms, or corporations using an RFP (i.e., a "solicitation communication") that describes the needed service. Interested parties submit *proposals* in response to the RFP. A *Screening* Committee must review the proposals in accordance with the review criteria set forth in the RFP. Once reviewed and ranked, the Screening Committee must submit the names of the three top ranking Proposers to the executive head of the agency. The Agency Head may then select the Contractor from among these names.<sup>3</sup> A PSA must then be negotiated and executed with the selected Contractor before work begins.

Pursuant to C.G.S. § 4-70e, the Secretary of OPM has general authority to establish State agency financial policies. In addition, C.G.S. § 4-217 authorizes the Secretary to establish standards and procedures for executive branch agencies to follow when conducting an RFP process. OPM's standards and procedures for RFPs are established and organized here into six major steps. The six-step process begins with organizing a Team to conduct the RFP and ends with the selection of a Contractor by the Agency Head.

The six basic steps of an RFP process are as follows:

#### (1) Organize the Team

The Agency Head (or designee) must select "the Team," defined here as the group of persons organized to work together to conduct the RFP process. The Team may include a *Process* Advisor and Technical Advisors. An Official Agency Contact must be appointed. It is recommended that an *orientation meeting* be held for Team members.

#### (2) Write the RFP

The Team, or some subset of its members, must write the RFP document and establish a timeline for the RFP process. Pursuant to State statutes, the RFP document must include the outline of work, the minimum qualifications of the Contractor, the review criteria, the required format for proposals, and the deadline for submitting proposals. In addition, OPM requires that an RFP include certain components, such as instructions for Proposers, the minimum submission requirements for proposals, and the procedures for answering inquiries. The RFP's conditions, the agency's standard contract and conditions, and

The standards and procedures presented here pertain only to the competitive negotiation process. The competitive quotation process is beyond the scope of these standards and procedures.

An agency may wish to enter into a PSA with more than one Contractor to provide the service. The agency would need to modify the process in order to satisfy the need for multiple Contractors. For example, if an agency was seeking two Contractors, the Screening Committee might submit the names of the top four Proposers to the Agency Head, instead of just three. The Agency Head would then select two Contractors instead of just one.

information about the State's contract compliance requirements must also be included. The Team should also determine whether the agency wants to include any recommended or optional components, such as a *letter of intent* from Proposers (recommended), a Proposers' conference (optional), a resource library (optional), style requirements (optional), or a surety bond (optional).

### (3) Write the Evaluation Plan

The Team, or a subset of its members, must determine the process for reviewing proposals submitted in response to the RFP. The process, when put in writing, is called an evaluation plan. The Team must also develop standardized rating sheets that will be used when reviewing proposals. It is recommended that a standardized form be created and used when checking the Proposers' references.

### (4) Issue the RFP

The RFP should be advertised through various media. If the cost of the anticipated contract is more than \$50,000, the RFP must be advertised. This involves writing a legal notice and having it published in newspapers, on the agency's website, etc. Anyone requesting a copy of the RFP must be given one. Interested parties submit letters of intent (recommended) to the agency or direct any inquiries they may have about the RFP to the Official Agency Contact. A Proposers' conference may also be held to answer questions.

#### (5) Review the Proposals

A Screening Committee – a subset of the Team – must review and rate the proposals in accordance with the evaluation plan. All references must be checked. The Committee may also hold meetings with Proposers for the purpose of asking *clarifying questions* about the proposals.

### (6) Select the Contractor

The Screening Committee must submit the names of the top three Proposers to the Agency Head, who selects the Contractor. (See Important Note below.) A Notification of Award letter must be sent to the selected Contractor. All other Proposers must be notified about the decision.

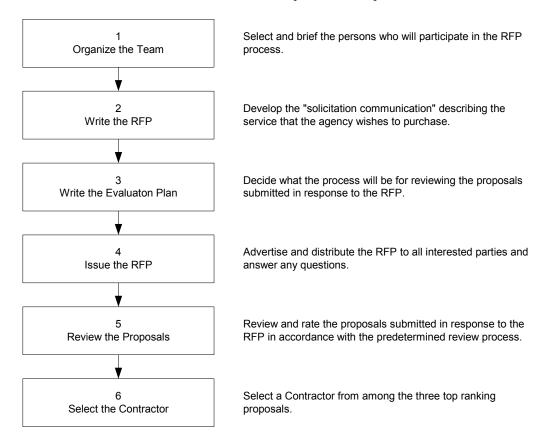


#### Important Note

The Agency Head has the prerogative to (1) reject any or all the names submitted by the Screening Committee or (2) void the entire RFP process. Reasons for doing so may include, but are not limited to, lack of available funding or some unforeseen change in the agency's circumstances or requirements.

#### 20. Phase II Flowchart

The flowchart below shows the six basic steps of an RFP process.



### 21. Phase II Tasks

Below is a checklist of all the tasks in Phase II. Each task has one of the following designations: required, recommended, or optional. Information about "required" tasks is located in this section of the document. An agency must complete all required tasks. Information about "recommended" and "optional" tasks can be found in the Appendices.

#### Phase II Tasks STEP 1: ORGANIZE the TEAM Select Team Members: Section 23 O to write RFP required Section 23 to write evaluation plan required O to review proposals ("Screening Committee") required Section 23 ☐ File statement(s) of financial interests required Section 23 ☐ Appoint Process Advisor optional Appendix F ☐ Appoint Technical Advisors optional Appendix G ☐ Appoint Official Agency Contact Section 24 required

	Hold orientation meeting for Team members: O Advise about unwarranted communications O Advise about Freedom of Information Act O Advise about ethics and confidentiality O Sign ethics and confidentiality statement O Advise about prohibited and illegal activities	recommended required required required required required	Appendix H Section 25 Section 26 Section 27 Section I Section 28
	STEP 2: WRITE the RFP		
	Write components required by PSA statutes:		
	O Outline of work	required	Section 13
	O Contract term	required	Section 15
	O Minimum qualifications of Contractor	required	Section 31
	O Required format for proposals	required	Section 32
	O Affidavit concerning gifts	required	Section 33
	O Submission deadline	required*	Appendix K
	O Review criteria with assigned weights	required	Section 34
_	O Legal notice	required	Section 36
	Write component required by executive order:		
	O Affidavit concerning campaign contributions Write components required by OPM's standards:	required	Section 33
	O Instructions for Proposers	required*	Appendix K
	O Official agency contact	required	Section 24
	O Proposers' representatives	required*	Appendix K
	O Communications notice	required	Section 25
	O Schedule of events	required*	Appendix K
	O Confidential information notice	required*	Appendix K
	O Affirmations concerning contract and conditions	required	Section 30
	O Minimum submission requirements	required	Section 33
	O References	required*	Appendix K
	O Packaging and labeling requirements	required*	Appendix K
	O Inquiry procedures	required	Section 37
	Write other recommended or optional components (if any):		
	O Letter of intent	recommended	Appendix U
	O Resource library	optional	Appendix V
	O Proposers' conference	optional	Appendix W
	O Style requirements	optional*	Appendix K
	O Multiple submissions	optional*	Appendix K
	O Meetings with Proposers	optional	Appendix Y
	O Surety bond	optional	Appendix Z
	Attach boilerplate:	. 1	G 4: 20
	O RFP conditions	required	Section 30
	O Standard contract and conditions	required	Section 30
	O Contract compliance requirements	required	Section 30
	Submit RFP to legal counsel for review	recommended	Section 30
	STEP 3: WRITE the EVALUATION PLAN		
	Write the evaluation plan:	required	Section 35
	O Determine process for reviewing proposals	required	Section 35
	O Put process in writing	required	Section 35
	O Develop rating sheets	required	Section 35
	O Develop reference check form	recommended	Appendix X
	O Approve plan	required	Section 35

STEP 4: ISSUE the RFP		
Advertise RFP through various media:	required	Section 36
O Write legal notice	required	Section 36
O Issue RFP to all interested parties	required	Section 36
O Receive letters of intent	recommended	Appendix U
Implement procedure for answering inquiries	required	Section 37
Hold Proposers' conference	optional	Appendix W
STEP 5: REVIEW the PROPOSALS		
Review proposals:	required	Section 38
O Give individual ratings	required	Section 38
O Check references	required	Section 38
O Hold meetings with Proposers	optional	Appendix Y
O Calculate committee ratings	required	Section 38
O Calculate final ratings	required	Section 38
STEP 6: SELECT the CONTRACTOR		
Select Contractor:	required	Section 39
O Submit names of top three Proposers to Agency Head	required	Section 39
O Agency Head selects Contractor	required	Section 39
O File certification	required	Section 39
O Send "Notification of Award" letter to Contractor	required	Section 39
O Notify other Proposers about the decision	required	Section 39

See the sample document entitled, "Instructions for Proposers," in Appendix K for an example of this required component.

#### 22. Phase II Timeline

The estimated timeline for Phase II is based on the tasks required by State statutes or by OPM's standards and procedures for PSAs. An estimated timeline is given for a simple RFP process and a complex one. If an agency's RFP process incorporates any recommended or optional tasks, additional time may be required.

Phase II Tasks	Estimated Timelines	
	Simple RFP	Complex RFP
1. Organize Team	3 days	1 week
2. Write RFP	3 days	2 weeks
3. Write evaluation plan	3 days	1 week
4. Issue RFP	3 weeks	4 weeks
5. Review proposals	1 week	4 weeks
6. Select Contractor	3 days	3 days
Total	6 weeks	12 weeks

The above timeline is presented for illustrative purposes only. The timeline for an agency's RFP should be based on its own requirements and, therefore, may vary from the illustration. It is the agency's responsibility to determine its RFP process (what will be done), satisfy the statutory requirements and OPM's standards (how it will be done), and allow sufficient time for conducting the process (when it will be done).

It may not possible at the outset to determine exactly how much time each step – and the overall process – will take. The agency should examine the tasks in each step and come up with its best estimate. Keep in mind the complexity of what the agency wants to do. Less complex initiatives will usually take less time; more complex ones will take more. The amount of money involved (i.e., anticipated cost) may or may not be a reliable indicator of how much time will be needed.

One approach is to determine the "range" of time each step may need. In other words, what is the least amount of time a step may take to complete? What is the most amount of time it may take? Adding together all the "least amounts" and all the "most amounts" for each step will result in "short" and "long" timelines for the process. It is recommended that the agency use the "long" timeline for planning purposes. If the process moves forward more quickly than anticipated, so much the better. If the agency uses the "short" timeline and the process goes more slowly than planned, it will be more difficult to make adjustments.

While the steps of the RFP process are sequential, certain tasks within each step may be done simultaneously. For example, in Step 2 ("Write the RFP"), one Team member may be

determining the Contractor qualifications while, at the same time, another is writing the instructions for Proposers. When feasible, such multi-tasking makes for a speedier process.

The timeline must incorporate all the key events and dates in the RFP process and present them in chronological order. At a minimum, the timeline must include the following:

- the release date of the RFP:
- the deadline for submitting a letter of intent (if any);
- the date of the Proposers' conference (if any);
- the deadline for submitting questions:
- the release date of the agency's answers; and
- the deadline for submitting proposals.

At an agency's discretion, the timeline may also include the following:

- the estimated dates for meetings with Proposers (if any);
- the estimated date for selecting the Contractor; and
- the estimated start date of the PSA.



# 📭 Important Note

An agency should allow sufficient lead time to conduct an RFP process when required by State statutes. Competitive negotiation is mandatory for any PSA with an anticipated cost of more than \$20,000 or having a term of more than one year. While an agency may apply to OPM for a waiver from competitive negotiation, the approval of the waiver shall be in accordance with OPM's guidelines. [See Section 17.] "Not having enough time" to conduct a competitive negotiation is not an acceptable reason for requesting a waiver.

#### 23. RFP Team Members

The RFP process has three essential tasks: (1) writing the RFP, (2) writing the evaluation plan for reviewing proposals, and (3) reviewing the proposals. While it is possible for one person to write the RFP or the evaluation plan, having a group of individuals who can collaborate and share the workload on these two tasks is recommended. The third task -i.e.reviewing the proposals – must be done by a Screening Committee comprised of three or more individuals. The Agency Head (or designee) must appoint the Screening Committee and the committee's Chair. The Agency Head (or designee) may also appoint a Process Advisor to ensure the integrity of the RFP process from start to finish. If the RFP involves highly technical or obscure subject matter, the Chair may appoint Technical Advisors to counsel and inform the Committee. This collective group of individuals working on any or all aspects of the RFP process is hereafter called the "Team."

In accordance with Governor M. Jodi Rell's Executive Order No. 1, promulgated on July 1, 2004 concerning ethical conduct when performing State business, the list of those State employees and public officials who must file a statement of financial interests has been expanded to include those having responsibility for the review, award, or monitoring of State contracts. Such financial statements must be filed with the State Ethics Commission under

the terms provided for by C.G.S. § 1-83. The Special Counsel for Ethics Compliance has issued a guideline for implementing paragraph 6 of the executive order. The guideline is available from the Governor's Office.

# (i) More Information

Appendix E, "How to Select the Screening Committee," page 69

Appendix F, "About the Process Advisor," page 70

Appendix G, "About Technical Advisors," page 71

Appendix H, "Orientation Meeting," page 71

Attachment CC, "Governor M. Jodi Rell's Executive Order No. 1," page 125

# 24. Official Agency Contact

An agency employee must be designated as the Official Agency Contact. The principal responsibility of the Official Agency Contact is to handle all communications with outside parties concerning the RFP. The Official Agency Contact also receives all proposals submitted in response to the RFP and keeps them, unopened, in a secure location until the submission deadline. After the deadline has passed, the Official Agency Contact gives the proposals (submitted before the deadline) to the Chair of the Screening Committee.

The Official Agency Contact should be someone who is "disinterested" (meaning, having no interest or involvement) in the RFP process, but who is knowledgeable about it. Having these qualities enables this person to speak for the agency about the RFP when necessary, yet minimizes the possibility of this person influencing – however unintentionally – the outcome of the process. While appointing a "disinterested" Official Agency Contact is the "best practice," it may not always be feasible, particularly if an agency has staff constraints. An acceptable alternative is for the Official Agency Contact to be a member of the RFP Team. An acceptable choice would be a Team member involved in the writing of the RFP document or evaluation plan. It is not permissible under any circumstances for the Official Agency Contact to be the Chair or a member of the Screening Committee.

#### 25. Communications

It is in an agency's best interest to control the flow of information about the RFP. Great care should be taken about what is said about it and to whom. To ensure the equitable treatment of potential Proposers, each must receive the same, accurate, and authorized information throughout the RFP process – no more, no less. For this reason, steps should be taken to prevent "unwarranted communications" with outside parties. An unwarranted communication is an exchange of information between the agency and any individual outside of the RFP process. Except as provided for by the RFP document, communication with any outside party is strictly prohibited.

That said, occasions might arise when an outside party attempts to communicate with the Team or an agency about an RFP. The outsider may be a potential or actual Proposer, but it could be anyone (e.g., current Contractor, lobbyist, newspaper reporter, legislator, an agency employee, an employee of another State agency). The agency must develop and implement a

communications procedure for handling such occasions and instruct the Team and agency employees about how to comply with the procedure.

An agency may establish its own procedure for handling unwarranted communications from outside parties. Below is a model procedure that may be modified to suit an agency's requirements:

- (1) Give sole responsibility for handling communications from Proposers and other outside parties to the Official Agency Contact. Make sure the contact information (telephone number, email address, etc.) for the Official Agency Contact is widely circulated and known throughout the agency.
- (2) Instruct agency employees to refrain from discussing the RFP with outside parties, especially any current Contractor or prospective Proposer. All communications about the RFP must be referred to and handled by the Official Agency Contact.
- (3) In the event an unwarranted communication occurs, the Official Agency Contact informs the outside party that such communications are strictly prohibited. In the event the offending party is a Proposer, the agency may wish to penalize or disqualify the Proposer. If such a policy is adopted, the agency must provide notice about the policy in the RFP's instructions.

#### 26. Freedom of Information Act

# ■ Request For Proposals

Several provisions of the Connecticut FOIA may be applicable to an agency's RFP. It is critical that an agency's legal counsel or Assistant Attorney General (AG) discuss these provisions with the Team before any issues arise.

The Connecticut FOIA generally requires the disclosure of documents in the possession of a State agency upon the written request of any citizen, unless some "exemptive provision" exists to allow non-disclosure. Before its issuance, an agency may be able to exempt the RFP document from the FOIA using the "preliminary drafts or notes" exemption found in C.G.S. § 2-210(b)(1). Preliminary drafts or notes relate to advisory opinions, recommendations, and deliberations comprising part of the process by which government decisions and policies are formulated. This means that the RFP should be labeled "DRAFT" and treated accordingly until the issue date. Labeling the RFP "DRAFT" and treating it as an "advisory opinion, recommendation, and deliberation" prior to the issue date may help the document qualify under the preliminary draft or notes exemption. Once issued, however, the RFP will be considered a final and public document subject to the FOIA.

See C.G.S. § 1-210; C.G.S. § 1-210(b)(1); and Wilson v. Freedom of Information Commission, 181 Conn. 324 (Conn. 1980) for a good discussion about preliminary drafts and notes.

#### ■ Proposals

When the submission deadline for proposals has passed, an agency may disclose the number of proposals received in response to the RFP. After the proposals have been opened, an agency may also disclose the name of the Proposers.

In the absence of some exemptive provision set forth in statute, the Freedom of Information Commission (FIC) has maintained that proposals submitted in response to an RFP are subject to the FOIA and must be produced upon request.<sup>5</sup> However, State agencies should consider and compare the facts and reasoning set forth in existing case law and in the 1980 Attorney General opinion to former Commissioner Muzio at the Department of Motor Vehicles.<sup>6</sup> Depending on the circumstances of the inquiry, a State agency may be able to exempt proposals or confidential parts of proposals from the FOIA.

One exemptive provision is for *trade secrets*, defined as information (such as formulas, programs, devices, methods, techniques, processes, drawings, cost data, or customer lists) that derive their economic value from not being generally known by other persons and which are recognized by law as confidential. If a Proposer wishes to include such information in a proposal, it must be isolated from the other materials submitted and clearly marked "CONFIDENTIAL." If the information is not readily available to the public from other sources and the Proposer submitting the information requests confidentiality, then the information is generally considered to be "given in confidence." Access to such information should be limited to the Team members who are directly involved in the review of proposals and, if necessary, the Agency Head. For a more complete definition of "trade secrets," see C.G.S. § 1-210.

### ■ Rating Sheets and Notes

When reviewing and rating proposals, the members of the Screening Committee must use standardized ratings sheets or some other system devised for this purpose (e.g., electronic spreadsheets). All individual and committee rating sheets must be retained in the project file and must be disclosed if they are the subject of an active FOIA request.

Members of the Screening Committee are not required to retain any preliminary, draft, or working notes, comments, or observations that they may have written, taken, or made for their own use and purposes during the review process and which have no value once action has been taken. Such materials are defined as "non-records" and their disposition is at the discretion of the holder.

See, e.g., <u>City of Hartford v. Freedom of Information Commission</u>, 41 Conn. App. 67 (Conn. App. Ct. 1996); <u>Chief of Staff v. Conn. Freedom of Information</u>, 25 Conn. L. Rptr. 270 (Conn. Super. Ct 1999).

See 1980 WL 119683 Op. Att'y Gen. (October 6, 1980) and Montville Town Planner v. Freedom of Information Commission, 1996 WL 680057 (Conn. Super. Ct. 1996).

#### 27. Ethics and Confidentiality

The State of Connecticut has long been committed to establishing laws, rules, and regulations in support of the highest standards of ethical conduct when performing State business. That said, all State employees and public officials must strive to avoid both actual conflicts of interest and any appearance of impropriety in their official conduct. Team members and any other individuals who participate in the RFP process must comply with the State's current ethics laws pertaining to State contracting.

All members of the RFP Team must be advised about the activities prohibited by the State's Code of Ethics for Public Officials (C.G.S. § 1-84). All members must also be advised that they must not participate in the RFP process if they have any interest that substantially conflicts with the proper discharge of their duties in the public interest (C.G.S. § 1-85). The State's ethics requirements are further defined by Public Act 04-245, "An Act Strengthening Ethics Laws Concerning Financial Disclosure, Gifts and State Contractors," and Governor M. Jodi Rell's Executive Order No. 1, dated July 1, 2004.

To reinforce the importance and seriousness of these matters, all Team members must be required to sign an *ethics and confidentiality agreement* at the outset of the RFP process. Any other agency employees who are privy to confidential information pertaining to the RFP should also sign such an agreement. In signing the agreement, the Team members and agency employees attest that they will abide by the standards of conduct set forth in the State's Code of Ethics and further attest that they do not have a *conflict of interest* with the proper discharge of their duties.

The agreements should be reviewed and endorsed once the identities of the potential or actual Proposers become known.



### Important Note

> If an agency decides not to use signed agreements, the Team members involved in the RFP process must still be advised of the State's ethics laws and confidentiality requirements. Team members must also be advised to remove themselves from participation in the RFP process if they have any conflict of interest. Ignorance is no excuse for failure to comply with the law.

(i) More Information Appendix I, "Ethics and Confidentiality Agreement," page 72 - 🖺 Sample Document

# 28. Prohibited and Illegal Activities

#### ■ Prohibited Activities

Proposers must conduct themselves in an acceptable manner and must refrain from engaging in certain prohibited activities during the RFP process. These activities give the appearance of impropriety and are contrary to the State's standard business practices. All agencies must strongly discourage or prevent Proposers from engaging in any of the following activities:

- Offering financial donations, material goods, gratuities, gifts, or favors to the agency or the agency's employees;
- Offering fund-raising activities for the agency's benefit;
- Offering unsolicited in-kind services;
- Offering activities, services, or sponsorships outside of the RFP subject area;
- Discussing other Proposers or proposals, or making comparisons to them;
- Referring or alluding to political affiliations, organizations, or connections; or
- Providing endorsements or references from individuals who have no expertise or experience in the RFP's subject area (e.g., celebrities).

This is not an exhaustive list. An agency may prohibit any activity that, in its opinion, would compromise the integrity of the RFP process. At an agency's discretion, violations may constitute grounds for disqualification of a proposal or other sanctions, or both.

# ■ Illegal Activities

All agencies and all Proposers must abide by all relevant State laws related to State contracting. Violations of the law constitute grounds for disqualification of a proposal or other sanctions, or both. Illegal activities include, but are not limited to, the following:

- Bribery C.G.S. § 53a-147
- Commercial bribery C.G.S. § 53a-160
- Receiving a commercial bribe C.G.S. § 53a-161
- Bid rigging C.G.S. § 53a-161a
- Disclosure of bid or proposal C.G.S. § 53a-161b
- Receiving kickbacks C.G.S. § 53a-161c
- Paying a kickback C.G.S. § 53a-161d
- Hindering prosecution C.G.S. § 53a-165aa, 53a-166 & 53a-167

Information about illegal activities can be found in C.G.S., Chapter 952, Part XI, Bribery, Offenses Against the Administration of Justice and Other Related Offenses.

### ■ Mandatory Reporting

If a member of the Screening Committee or an agency employee uncovers or suspects any prohibited or illegal activity related to the RFP process, the activity must be reported to the Chair of the Screening Committee or the Agency Head. If reported to the Chair, the Chair must report the activity to the Agency Head. The Agency Head – upon advice of the

agency's legal counsel, the Chief State's Attorney (Division of Criminal Justice), and the Office of the Attorney General – must decide whether to investigate or prosecute or take other appropriate action with respect to the reported activity.

### 29. Writing the RFP

The Team members charged with responsibility for writing the RFP are advised to contact the agency's business office and obtain a copy of a previously issued RFP. Having an "old" RFP as a reference can make the task of writing the "new" one much easier. The old one illustrates an agency's preferred outline for an RFP and may also provide "templates" (i.e., previously written text) that may be copied or modified for the new one.

Listed below are the RFP components that are required by State statutes or OPM's standards for PSAs. Also listed are optional components that an agency may include in any given RFP. The list of components is not exhaustive, and an agency may add other components to meets its unique requirements.

# ■ Components Required by State Statutes

- legal notice
- outline of the work to be performed
- contract term
- required minimum qualifications of the Contractor
- deadline for submitting proposals
- criteria for reviewing the proposals
- affidavit concerning gifts
- required format for proposals

### ■ Components Required by Executive Order

affidavit concerning campaign contributions

# ■ Components Required by OPM's Standards

- instructions for Proposers
- official agency contact
- Proposer's representatives •
- communications notice
- schedule of events
- confidential information notice
- affirmations concerning standard contract and conditions
- minimum submission requirements
- references
- packaging and labeling requirements
- inquiry procedures

#### **■** Optional or Recommended Components

- letter of intent
- Proposers' conference
- resource library
- multiple submissions
- style requirements
- meetings with Proposers
- surety bond

The Team members responsible for writing the RFP need to organize all the required components into a logical, well-organized document. After writing and assembling the RFP, it is strongly recommended that the RFP be submitted to the agency's legal counsel for review before going forward.

(i) More Information

Appendix J, "RFP Outline," page 74 – Sample Document
Appendix K, "Instructions For Proposers," page 75 – Sample Document

### 30. Boilerplate

An agency must notify prospective Proposers about the legal constraints governing the RFP and contracting processes. Toward this end, an agency must include the following in the RFP upon distribution: (1) the RFP's conditions, (2) a copy of the agency's standard contract and conditions, and (3) information about the State's contract compliance requirements. This practice is designed to protect the State's interests in the RFP process. It is also intended to avoid a situation where the Agency Head selects a Contractor who is subsequently unwilling to sign the agency's standard contract or accept the State's contract compliance conditions.

#### **■** RFP Conditions

The agency must inform potential Proposers about the RFP's conditions. "Conditions" are the State- or agency-determined "rules" governing the RFP process. A list of such conditions is commonly included in the RFP. As the conditions governing the RFP process may vary from agency to agency, the Team members responsible for writing the RFP should seek advice from the agency's business office or legal counsel about what conditions to include. Proposers must be required to include a written affirmation in their proposals that they accept the RFP's conditions in their entirety and without amendment.

#### ■ Agency Contract and Conditions

The agency's business office or legal counsel should have a copy of the agency's standard contract and conditions (which must be approved by the AG's office prior to use). The standard contract and conditions must be attached to the RFP so that Proposers are aware of the agency's contract language before submitting their proposals. Proposers must be required to include a written affirmation in their proposals that they accept the agency's standard contract and conditions in their entirety and without amendment.

### ■ State Contract Compliance Laws

The State of Connecticut's contract compliance laws were enacted as a means of providing (1) equal employment opportunities for minorities and female workers and (2) economic development and growth opportunities for small contractors, minority-owned businesses, and women-owned businesses through the distribution of State contracting dollars. State statutes also prohibit those who contract with the State, including subcontractors, from engaging in or permitting discrimination in recruiting, hiring, or other employment practices.

To comply with the State's contract compliance requirements, a State agency must include the following documents in its RFP:

- "Contract Compliance Notification to Bidders" This document gives notice to Proposers that the contract to be awarded is subject to the contract compliance requirements mandated by State statutes and regulations.
- "Acknowledgment of Contract Compliance to Bidders" This form, which declares that a Proposer has received and read the "Contract Compliance Notification to Bidders" (above), must be completed by the Proposer and submitted along with the proposal.

"Workforce Analysis Affirmative Action Report" This employment information form is used to report the racial and sexual composition of a firm or corporation's workforce. The form must be completed by the Proposer and submitted along with the proposal.

More information on these contracting requirements is available on CHRO's website at http://www.state.ct.us/chro under "Contract Compliance." Answers to frequently asked questions about contract compliance are available at http://www.state.ct.us/chro/metapages/ContractCompliance/CCFAQs.htm.

**(i)** *More Information* 

Appendix L, "RFP Conditions," page 78 - [ Sample Document Appendix M, "Standard Contract and Conditions," page 80 - Description Sample Document Attachment EE, "Contract Compliance Documents," page 128

### 31. Contractor Qualifications

Pursuant to State statutes, the RFP must include the "required minimum qualifications" of the Contractor. The term "qualifications" refers to any necessary experience, credentials, or skill set that must be met as a precondition of eligibility. The tasks or activities contained in the outline of work should help ascertain what the required minimum qualifications might be. If a Proposer does not meet the required minimum qualifications, the proposal is not eligible for review

#### Example

If the purpose of an RFP is to provide specialized health services to certain clients, it is reasonable to require that an individual Proposer have a medical degree from an accredited school and hold a State license as a specialist in the field – or – in the case of a firm or corporation, have such personnel on staff who can provide the services. The agency may also require at least five years of experience in providing such services as a precondition of eligibility. If the Proposer does not possess all the above qualifications (i.e., if the Proposer does not meet the minimum required qualifications), the agency would automatically reject the proposal without further review.

Take care when determining the required minimum qualifications. If the bar is set too high, the agency may eliminate otherwise good proposals that fall a little short. If the bar is set too low, the quality of the service may be compromised.

#### Examples of Qualifications:

- Experience. E.g., having directly participated in a certain activity for a certain length of time; having a documented "track record" of past performance (that can be taken as an indicator of likely future performance); having provided services or products of similar scope and magnitude; etc.
- Education or Training. E.g., having certain credentials (diplomas, certificates, licenses) that show the Proposer has fulfilled certain requirements and may practice in a particular field.
- Special Knowledge, Skills or Abilities. E.g., having special knowledge or understanding of certain facts or ideas; having the capacity to carry out or perform certain tasks or responsibilities; having certain levels of proficiency or aptitudes; etc.

#### 32. Required Format for Proposals

# ■ Main Proposal

According to State statutes, an RFP must include information about the required format for proposals. As RFPs vary widely from agency to agency, and from project to project within an agency, it is not possible to establish a "one format fits all" standard. An agency needs to consider the RFP at hand and come up with a suitable format for the proposal. A suitable format is one that is as straightforward as possible, covers all aspects of the RFP, and can be easily followed by Proposers. Whatever format an agency decides to use, its structure and its required use must be clearly explained to Proposers in the RFP.

The required format must be exactly that: required. If a proposal does not follow the format, the proposal must be disqualified and not reviewed by the Screening Committee. Having a required format not only satisfies the State statutes, it also facilitates the work of the Screening Committee, since the Committee will know where to find certain documents or information in each and every proposal submitted. A required format makes it immediately apparent if a document or information is missing from a proposal. If a proposal that did not follow the format was accepted for review, the Committee would have to search to find the requested documents and information – clearly, a waste of time.

The required format should be more than a simple list of what documents and information to include in a proposal. Rather, the required format should be more akin to a detailed outline. The outline should prescribe not only what documents and information to include in the proposal, but also the order in which to present them. In other words, the format should adhere to an outlining convention (i.e., a standardized system of numbering and indentation) that reflects the logical order and hierarchy of the proposal.

An agency, at its option, may waive "technical irregularities" with respect to the required format, such as minor errors in pagination or outline numeration. Waiving a technical irregularity must not give a Proposer an undue advantage or compromise the integrity of the RFP process. A technical irregularity must not be construed to mean: (1) the failure to include required documents or information; (2) the failure to present the required documents or information in the required order; or (3) the failure to submit the proposal before the established deadline.

# ■ Cost Proposal

An RFP must also indicate the required format for the cost proposal. This assures that all Proposers will present their cost information in a uniform way, thus allowing for a direct comparison of proposals. The appropriate cost format will largely depend on the type of service requested. Again, whatever the required format for the cost proposal, it must be exactly that: required. If a proposal does not follow the format, the proposal must be disqualified and not reviewed by the Screening Committee.

An agency needs to decide if it wants the cost proposal immediately visible or if it wants the cost initially concealed. A proposal with the cost proposal immediately visible upon opening the proposal is referred to here as a "one-part" proposal. A proposal with the cost initially concealed upon opening the proposal is referred to here as a "two-part" proposal. With a one-part proposal, the cost is submitted with the main proposal as a single, unified document. In other words, all information is available at once to the Screening Committee upon opening the proposal. The proposal is reviewed and rated in its entirety in a one-step process. With a two-part proposal, the cost is submitted with the main proposal, but in two separate parts. In other words, not all information is available at once to the Screening Committee upon opening the proposal. The main proposal is visible, but the cost proposal is kept under a sealed cover. The main proposal is opened, reviewed and rated first. Then the cost proposal is opened, reviewed, and rated. The two separate ratings are then combined into one overall rating.

What are the advantages of each type of proposal and when should they be used? One-part proposals are easier to understand and quicker to review, as full information is available immediately. They should be used for lower-cost or less complicated projects. Two-part proposals should be used for higher-cost and more complicated projects. Two-part proposals enable the Screening Committee to focus on the quality of the main proposal, without any bias with respect to its cost. Two-part proposals are used in situations where the quality of the main proposal may outweigh the importance of cost. While low cost is desirable, it may not represent the best value or overall benefit. If an agency's RFP is deemed to be significant from either a financial or programmatic standpoint, a two-part proposal is recommended.

(i) More Information

Appendix N, "Required Format for Proposals," page 90 Appendix O, "Common Cost Formats," page 93

#### 33. Minimum Submission Requirements

The agency must determine the minimum submission requirements for an "acceptable" proposal. An acceptable proposal is one that meets the minimum submission requirements and is, therefore, eligible for review by the Screening Committee. Any proposal that does not meet these requirements must be deemed "unacceptable" and ineligible for review by the Screening Committee. Examples of such requirements include, but are not limited to: (1) meeting the submission deadline, (2) meeting the packaging and labeling requirements, (3) submitting a complete proposal, (4) following the required format, and (5) submitting any affidavits required under Public Act 04-245 and Governor M. Jodi Rell's Executive Order No. 1.

When proposals are opened after the deadline, they should receive a preliminary review to determine if they meet the minimum submission requirements. The minimum submission requirements are rated either "Yes" or "No." In other words, a proposal either meets a requirement or it does not. The preliminary review is designed to catch any glaring deficiency in a proposal. If permitted by the evaluation plan (see Section 35 below), the Official Agency Contact may be asked to notify any Proposer who has submitted a deficient proposal and allow the Proposer a limited time to remedy the deficiency. Failure to remedy the deficiency within the time allowed would disqualify a proposal from further review.

Later in the review process, an individual member of the Screening Committee may decide that a proposal does not meet a minimum submission requirement. In such a situation, the member would bring the alleged deficiency to the full Committee's attention. If permitted by the evaluation plan (see Section 35 below), the Official Agency Contact may be asked to notify any Proposer who has submitted a deficient proposal and allow the Proposer a limited time to remedy the deficiency. Failure to remedy the deficiency within the time allowed would disqualify a proposal from further review.

# Important Note

- > All agencies must abide by the new State contracting requirements set forth in Public Act No. 04-245. Effectively immediately and until June 30, 2006, no state agency shall execute a large State contract – defined as more than \$500,000 in a calendar or fiscal year – unless the agency obtains certain affidavits concerning gift giving. A "proposal affidavit" attests to whether or not any gifts were given to any public official or state employee during the two-year period preceding the submission of the proposal. The affidavit must be signed by the official of the person, firm or corporation submitting the proposal. If any gifts were given, the affidavit must include the name of the recipient, a description of the gift, and the value and approximate date of the gift. An agency's minimum submission requirements must include this affidavit. A second affidavit – called a "contract affidavit" – is required for large State contracts at contract execution.
- Paragraph 8 of Governor M. Jodi Rell's Executive Order No. 1 requires that those who file an affidavit pursuant to Public Act 04-245 shall disclose in those affidavits all contributions made to campaigns of candidates for state-wide public office or the General Assembly. If any contributions were given, the affidavit must include the name of the recipient, a description of the contribution, and the amount/value and approximate date of the contribution. Further, any Contractor who is awarded a large State contract shall update the required affidavit on an annual basis. In the event a contract is awarded on a noncompetitive (i.e., sole source) basis and a "proposal affidavit" was not submitted, a Contractor must submit a "no previous proposal affidavit."
- *More Information* Attachment BB, "Public Act 04-245," page 120 Attachment CC, "Governor M. Jodi Rell's Executive Order No. 1," page 125

#### 34. Review Criteria

Review criteria are the standards by which the Screening Committee will judge the merits of the proposals. According to State statutes, an RFP must include the criteria that will be used to review proposals. The criteria should be individually tailored for each RFP. Including the criteria in the RFP provides additional guidance to Proposers about what the agency is requesting. Only the criteria contained in the RFP shall be used to review proposals. The use of review criteria other than those listed in the RFP is prohibited. The criteria must be applied to the submitted proposals without any changes, deletions, or expansions. Furthermore, the criteria must be determined *before* the RFP is released (and any proposals are received).

#### Examples of Review Criteria:

- Contractor Qualifications e.g., previous experience; education and training; special knowledge, skills or abilities
- Financial Condition i.e., the sufficiency of resources to complete the contract
- References i.e., formal recommendations by former employers or associates describing the Proposer's qualifications, abilities, dependability (etc.)

Outline of Work – e.g., the quality of the proposed work plan and methodologies to achieve the project's expected outcomes, including the ability to complete the work within the time frame

- Key Personnel e.g., the number, qualifications, and titles of the primary person(s) assigned to the project
- Staffing Plan e.g., detailed explanation of how key personnel will be applied to the project, including the number of hours for each task
- Contract Compliance Requirements e.g., the success or promise of a Proposer to meet the State's contract compliance requirements related to affirmative action and nondiscrimination
- Cost e.g., the amount of money that a Proposer requires to provide a service
- Other e.g., criteria unique to the agency's RFP

Whatever criteria are used, they should be: (1) objective, meaning they are based on the project's characteristics and requirements; (2) comprehensive, meaning they address all key elements of the RFP; (3) clear, meaning they are readily understood by Proposers and the Screening Committee; (4) fair, meaning they treat all Proposers equitably, (5) appropriate, meaning they are right or suitable for the purposes at hand; and (6) measurable, meaning they are quantifiable.

After the Team identifies suitable review criteria, they must be weighted – i.e., prioritized – according to their relative importance. If an RFP has a maximum of 100 points, each criterion must be assigned some portion of the 100 available points. For example, using criteria from the list above, the outline of work may be worth 15 points, the Contractor's qualifications may be worth 20 points, key personnel may be worth 15 points, cost may be worth 15 points, financial condition may be worth 15 points, contract compliance requirements may be worth 10 points, and references may be worth 10 points – for a total of 100 points.

The agency needs to decide whether or not to include the assigned weights in the RFP. According to State statutes, the RFP must include the review criteria, but there is no requirement to disclose the weights assigned to the criteria. Disclosing the weights may encourage Proposers to skew their proposals (according to the weights) in an effort to improve their ratings. Keeping the weights confidential until the proposals are reviewed may produce better proposals and better project results. For this reason, it is strongly recommended that the weights be kept confidential. Only the Agency Head and the Team members involved in writing the RFP, writing the evaluation plan, and reviewing the proposals (i.e., the Screening Committee) should know the weights.

Once finalized, the Team members responsible for writing the evaluation plan must use the criteria and weights to create a standardized rating sheet or some other instrument (e.g., an electronic spreadsheet) that can be used by the Screening Committee when reviewing

proposals. The rating sheet must be approved by the Agency Head (or designee) and Screening Committee before the RFP is released.

(i) More Information Appendix P, "Rating Sheets," page 96 - [ Sample Document

### 35. Writing the Evaluation Plan

Certain Team members must be charged with the responsibility for writing an evaluation plan. (At the agency's option, the members of the Screening Committee or some subset of the Committee may write the evaluation plan.) The evaluation plan describes the Screening Committee's step-by-step process for reviewing proposals: from the time when the proposals are received by the Official Agency Contact, to the time when the names of the three top ranking Proposers are submitted to the Agency Head. The plan must also include the rating sheet (with the criteria and weights) that must be used when reviewing the proposals. The members of the Screening Committee and the Agency Head (or designee) must approve the evaluation plan, including the weighted criteria, before the RFP is released.



# ኪ Important Note

As discussed in Section 2 above, each agency must establish written procedures that describe in detail how the agency will implement OPM's standards for PSAs. Each agency's procedures must be submitted to the Secretary of OPM for approval. After the procedures are approved, an agency may enter into PSAs based on its approved procedures. An agency's approved procedures must be the basis of any evaluation plan. In other words, the evaluation plan must conform to and be consistent with an agency's approved procedures.

Typically, proposals are initially reviewed and rated by the individual members of the Screening Committee. These individual ratings are then shared in a meeting of the entire Committee. Individual ratings that are widely discrepant are discussed and individual members may (but are not required to) change their ratings as a result of the group discussion. Once all members are satisfied with their ratings, the individual ratings are combined and averaged. The average ratings are then multiplied by the criteria weights. The results are added together and then a prescribed formula is applied to determine the final rating.

The evaluation plan should include, but is not limited to, the following steps in the review process:

- Receiving proposals
- Individual rating of proposals
- Holding meetings with Proposers (optional)
- Committee rating of proposals
- Reporting to Agency Head

When reviewing proposals, the members of the Screening Committee are advised NOT to review and rate a proposal in its entirety and then proceed to the next one, then the next, etc. It is better to review and rate all the proposals by the first criterion, then the second criterion, and then the next, etc. This enables the members to gain an understanding of how all the

Proposers responded to an RFP component and how the proposals compare to one another. Reviewing the proposals one component at a time will make their relative strengths and weaknesses more apparent, easier to distinguish, and easier to rate.

If an agency expects to receive a large number of proposals in response to an RFP and is uncertain whether the Screening Committee will have time to review them all fully, an *elimination round* may be implemented. The details of the elimination round – i.e., the circumstances that would trigger it and how it would be conducted – must be included in the evaluation plan. A notice that an elimination round may be triggered under certain circumstances must also be included in the RFP. An elimination round should be triggered by at least a majority vote of the Screening Committee. If triggered, the elimination round must be conducted by the Screening Committee and not relegated to Technical Advisors, other Team members, or other persons outside the Team.

The elimination round may be structured in any number of ways. One possible way is to review and initially rate, for example, all Proposers on just their qualifications. Only the top ranking proposals would be reviewed further. If there is an expectation that an elimination round may be triggered, it is recommended that Proposers be instructed to put information about their qualifications under separate cover when submitting their proposal. If an elimination round is triggered, then the Screening Committee would initially only received the qualifications of each Proposer and no other information contained in the proposal. The rating sheet should also be designed so that the Screening Committee can review and rate the qualifications separately and apart from the other criteria.

Another way to structure an elimination round is to do a *Request For Qualifications* (RFQ) process *before* the RFP process. Interested Proposers would submit only their qualifications, a list of the key personnel who would be assigned to the project, and a brief description of their approach to the project. The Screening Committee would review and rate the RFQs in accordance with a previously approved evaluation plan. The top ranking Proposers would then be asked to submit a full proposal in response to an RFP.

(i) More Information
Appendix Q, "Evaluation Plan," page 101 - [iii] Sample Document

# 36. Advertising

A State agency increases the likelihood of procuring a service at the most favorable cost when there is an open and fair competition among Proposers. Such an open and fair competition can only occur when potential Proposers are aware of the RFP and have an opportunity to respond. For this reason, an agency needs to advertise the RFP in ways that allow for its greatest possible visibility and distribution.

The first step in advertising the RFP is writing a legal notice - i.e., a public announcement about the RFP. At a minimum, the legal notice should contain the following information:

- the agency's name and address;
- a brief description of the project:
- the required qualifications of the Contractor;

- the location, date, and time of the Proposers' conference (if any);
- who to contact to obtain a copy of the RFP; and
- the deadline for submitting proposals.

Once written, the legal notice may be mailed to individuals, firms or corporations that the agency believes may be interested in responding to the RFP, but such a mailing must not be done exclusively. The direct mailing must also include small and minority-owned businesses that have been certified by DAS. Contact the agency's Affirmative Action Officer, Purchasing Officer, or DAS for a copy of the current list. The list is also available at http://www.das.state.ct.us/Purchase/SetAside/SAPVendor.asp.

When the anticipated cost of the PSA is more than \$50,000, agencies must advertise in print media (in terms of volume and geographic area). Print media include major newspapers having either statewide or regional (multi-state) circulation, such as the *Hartford Courant*, Boston Globe, or New York Times. Other examples of large, Connecticut newspapers are the New Haven Register and Connecticut Post (Bridgeport). An agency must also advertise in newspapers having circulation primarily among minority-owned business enterprises, as defined by C.G.S. § 46a-68j-30(9). Examples of such newspapers include, but are not limited to, the Northeast Minority News (Hartford), Northend Agent (Hartford), and Inner City News (New Haven). An agency may also choose to advertise in any appropriate industry, trade, or professional publication.

All legal notices and RFPs must also be published on the agency's website. Ideally, a prominently placed hyperlink or clickable image on the agency's "home page" should take the viewer to an "RFP page" where all the agency's legal notices and RFPs are listed. From the RFP page, a viewer should be able to view, download, and print each legal notice and RFP.

The Department of Administrative Services (DAS) maintains a page on its website devoted to "Other State Agency Bid/RFP Sites." The address is http://www.das.state.ct.us/Purchase/Agency Bid Sites.htm. Any agency conducting an RFP should ask DAS to be included on this list.

Be sure to coordinate the timing of any direct mailing with the publication of the legal notice in any print media and on the agency's website. They should occur simultaneously.

Some interested parties may request a hard copy of the RFP from an agency. So as not to discriminate against those without access to a computer, a printer or the Internet, a hard copy of an RFP must be given to anyone who requests one. It is advisable to keep a list of all those requesting a copy, as this information can be useful for updating the agency's direct mailing list or issuing any amendments to the RFP.

# **1** *More Information*

Appendix R, "Legal Notice," page 107 - D Sample Document Appendix S, "How to Create a Direct Mailing List," page 108

# 37. Inquiry Procedures

After the RFP is issued, an agency needs to manage inquiries from potential Proposers. The agency should answer these questions as clearly as possible and in such a way as to preserve the integrity of the process. The goal is to make certain that all Proposers have equal access to any new information (in the form of answers) provided by the agency, so that no Proposer has an unfair advantage over the others. Whatever procedure an agency adopts to answer questions, it must be explained in the RFP.

Proposers must submit their questions in writing by the deadline established in the RFP. The deadline for questions should be at least two weeks after the RFP is issued. This gives Proposers sufficient time to read the RFP and submit their questions. The agency should allow Proposers to submit questions using a variety of means (i.e., US mail, e-mail, facsimile, or an electronic form posted on the agency's website). Questions must not be accepted over the telephone.

All questions from Proposers must be directed to the Official Agency Contact, who is responsible for forwarding the questions to the Team. The Official Agency Contact should compile and repackage the questions into a new document without any identifying information about the Proposers. This practice reinforces the Team's objectivity, enabling them to respond to questions without bias. It also ensures confidentiality, as the identity of the Proposer asking the question cannot be inadvertently revealed to other Proposers when the answers are released.

All questions received before the deadline must be answered. The agency has the discretion to respond (or not) to questions received after the deadline. The agency has the right to combine "like questions" and give only one answer. The agency is not required to answer questions when the source is unknown (i.e., nuisance or anonymous questions).

All questions and answers must be compiled into a written amendment to the RFP and numbered (e.g., Amendment 1), even if there is only one question and answer. Should multiple amendments be issued, they must be sequentially numbered (e.g., Amendment 2, 3, etc.). If the answer to any question constitutes a material change to the RFP, the question and answer must be placed at the beginning of the amendment and duly noted as such. Amendments should be reviewed by the agency's top management, as appropriate, prior to release

The agency must release the answers to questions on the date established in the RFP. The established deadline must give the Team enough time to prepare the answers and have them approved by agency management, as appropriate. Any and all amendments must be distributed to the following individuals: (1) those on any mailing list used to distribute the legal notice or RFP, (2) those who submitted a letter of intent (if any); (3) those who submitted questions; and (4) those who attended the Proposers' conference (if any). If, however, the RFP required a letter of intent or attendance at a Proposers' conference, an agency need only distribute the amendment(s) to those who submitted such a letter or attended the conference. In addition, an agency must also publish amendments on its website. An agency must not use its website as the sole or exclusive means of distributing answers to questions about the RFP.

The release date for the answers to questions about the RFP must be at least two weeks before the deadline for submitting proposals. This gives Proposers sufficient time to modify their proposals in accordance with the new information. In the event answering questions takes longer than anticipated, an agency should consider the amount of time remaining until the submission deadline. If an insufficient period of time remains (i.e., less than two weeks), the agency should establish a new deadline – using an amendment to the RFP to do so.

# (i) More Information

Appendix T, "Questions and Answers," page 108 - L Sample Document

Appendix U, "Letter of Intent," page 109 - Bample Document

Appendix V, "Resource Library," page 111

Appendix W, "Proposers' Conference," page 111

# 38. Reviewing Proposals

All submitted proposals must be stamped with the time and date received, including those received after the deadline. Proposals must not be opened until the deadline has passed. An agency may return late proposals unopened or may destroy them. If late submissions are to be destroyed, an agency should contact the Proposer and provide an opportunity to retrieve the unopened submission. A memorandum, describing the destruction or return of any late submission, should be prepared and maintained in the project file.

The Screening Committee must review the proposals in accordance with the approved evaluation plan (per Section 35 above). If some circumstance arises that requires deviation from the plan, the Screening Committee may modify the plan by adopting a written amendment. The amendment must be approved by a majority vote of the Committee, and the Agency Head (or designee) must approve the amended plan.

After the due date and time for submitting proposals has passed, proposals must be opened by the Chair (or designee) in conjunction with one other Committee member. The Chair and Committee member must conduct a preliminary review of each proposal to verify that the proposal meets the minimum submission requirements, as specified in the RFP. The Chair must advise the Screening Committee about any proposal that does not meet the minimum submission requirements. At the request of the Screening Committee, the Official Agency Contact may contact any Proposer who submitted a deficient proposal and allow the Proposer a specified period of time to correct the deficiency. Any such correction must be in writing, signed by the Proposer, and submitted to the Official Agency Contact within the time allowed. Failure to submit the necessary correction within the time allowed must disqualify a proposal from further review.



# Important Note

> Other than to correct deficiencies (as described in the paragraph above), no changes shall be made to any proposal after it has been accepted for review by the Screening Committee.

After the deadline for submitting proposals, the Chair must assign a Team member (or members) to check the Proposer's references. The purpose is to verify the skills,

qualifications, work record, or accomplishments of a Proposer and to seek other information about the Proposer that may be of interest to the Screening Committee. It is recommended that a standardized form be created and used for checking references. The standardized form assures that all references are asked the same set of questions about each Proposer. This is done in the interest of fairness and to prevent any bias, however unintentional, from being introduced into the review process (i.e., asking "hardball" questions about some Proposers and "softball" questions about others). Once the reference checks are completed, the Team members report their findings to the Chair and other Committee members.

The Screening Committee may ask clarifying questions of Proposers. The purpose of such clarifying questions is to allow Proposers to further explain aspects of their proposals causing confusion or misunderstanding. The Chair should designate a Committee member to collect questions from the Screening Committee, organize the questions into sets by Proposer, and send each Proposer the questions direct to that Proposer. In other words, the Proposers do not see all the questions, only the ones directed them individually. The questions may be sent by US mail, facsimile, or email. Proposers should be given a limited amount of time to respond with their written answers (e.g., one week). The Screening Committee should review each answer with an eye to make sure that it clarifies – and does not alter – the original proposal.

If the RFP and evaluation plan allows for demonstrations, interviews, presentations or site visits, such meetings with Proposers may be conducted at any time before the final rating of proposals by the Screening Committee and in accordance with procedures established by the Screening Committee prior to holding any such meetings. Ideally, all Proposers whose proposals are under active consideration should be treated equally with respect to these meetings. In other words, if the Screening Committee wishes to conduct interviews, all Proposers should be interviewed. The same should hold true for any demonstrations, presentations, or site visits. However, when a great number of proposals are under consideration, holding meetings with all Proposers may not be feasible or even warranted. At its option, the Screening Committee may decide to meet with only the top ranking Proposers. The actual number invited should be decided by a vote of the entire Committee and documented in the project file. It is recommended that, at a minimum, the six top ranking Proposers be invited. Since the Committee is required by State statute to report the names of the three top ranking Proposers to the Agency Head at the conclusion of the review process, a somewhat larger pool of Proposers would give the Committee more options.

# ■ Rating the Main Proposals

The rating of each main proposal should be done in four steps:

Step 1 – Individual Rating

Using a standardized rating sheet, the individual members of the Screening Committee rate each main proposal according to the established criteria. The ratings of the individual members are then shared and discussed with the other Committee members. At this point, individual members may change any rating on their rating sheets, but must not be pressured or required to do so.

### Step 2 – Average Rating

Using a standardized rating sheet, the individual ratings for each criterion are recorded. The individual ratings given by each Committee member for each criterion are then added together and averaged.

### Step 3 – Weighted Rating

Using a standardized rating sheet, the average rating for each criterion is multiplied by its assigned weight. The results are added together to determine the weighted rating for the main proposal. Calculate the weighted ratings for all main proposals before proceeding to Step 4.

## Step 4 – Final Rating

Using a standardized rating sheet, a prescribed formula is applied to the weighted rating in order to determine the final rating of the main proposal. The proposal with the highest rating automatically receives 100% of the available points. All other proposals receive a lesser percentage determined by the formula.

#### Formula

Divide the weighted rating of any main proposal by the weighted rating of the highest rated main proposal.

Then multiply by the total available points for the main proposal.

The result is the final rating of this main proposal.

## Example

Assume that the main proposal has 85 total available points (and the cost proposal has 15 total available points).

Proposer A receives a weighted rating of 62 on the main proposal. The weighted rating of Proposer A is also the highest of all Proposers. According to the formula, 62 is divided by 62, which equals 1. Multiply 1 by 85, which results in 85. Proposer A receives 85 points (i.e., 100% of the available points).

Proposer B receives a weighted rating of 50. The rating of Proposer B (50) is divided by the weighted rating of the highest rated Proposer A (62), which results in 0.80. Multiply 0.80 by 85, which results in 68. Proposer B receives 68 points (i.e., 80% of the available points).

### ■ Rating the Cost Proposals



Important Note

> The Screening Committee should make certain that all costs for the service (project) are included in the proposal. A proposal may "inadvertently" omit certain costs and, after the PSA has been executed and work has begun, the Contractor could attempt to increase the contract amount to cover the "inadvertently" omitted costs.

The rating of each cost proposal should be done in one step. At its option, an agency may add a second step. In the first step, each cost proposal is rated using a prescribed formula. In the second step, the Screening Committee expresses its level of "confidence" in the proposed cost. In other words, does the Committee member think that the proposed cost is credible. accurate, fair, and reasonable? Does it seem too high or too low, or just right? Such an assessment may be based on the accuracy of cost calculations, the completeness of cost information, the credibility of cost assumptions, or other appropriate criteria.

## Step 1 – Formula Rating

The first step in rating the cost proposal involves the use of a prescribed formula. The proposal with the lowest cost automatically receives 100% of the points apportioned for the "formula rating." All other proposals receive a lesser percentage.

#### Formula

Divide the <u>cost of the lowest cost proposal</u> by the <u>cost of any other cost proposal</u>. Then multiply by the total available points for the cost formula. The result is the formula rating for this cost proposal.

#### Example

Assume that the cost proposal has 15 total available points (and the main proposal has 85 total available points).

Proposer A submits a proposed cost of \$200. This proposed cost is also the lowest of all Proposers. According to the formula, \$200 is divided by \$200, which equals 1. Multiply 1 by 15, which results in 15. Proposer A receives 15 points (i.e., 100% of the total available points) for the formula rating.

Proposer B submits a proposed cost of \$250. The cost of Proposer A (\$200) is divided by Proposer B's cost (\$250), which results in 0.8. Multiply 0.8 by 15, which results in 12. Proposer B receives 12 points (i.e., 80% of the total available points) for the formula rating.

### Step 2 – Confidence Rating

The Screening Committee may also wish to give each cost proposal a confidence rating. The confidence of each Committee member in a cost proposal may be expressed as a percentage applied to the weighted rating in increments of 20% (e.g., 100%, 80%, 60%, 40%, or 20%). A rating of 100% would be considered an "Excellent" cost proposal, a rating of 80% would be "Above Average." a rating of 60% would be "Average." a rating of 40% would be "Below Average," and a rating of 20% would be "Unacceptable." The ratings of the individual members are shared and discussed with the other Committee members. At this point, individual members may change their confidence ratings, but must not be pressured or required to do so. The individual ratings given by each Committee member are then added together and averaged.

Using a standardized rating sheet, the weighted rating is multiplied by the average confidence rating. The result is the final cost rating.

#### **Formula**

Multiply the weighted rating by the average confidence rating. The result is the final cost rating for this cost proposal.

### Example

Assume that cost has 15 total available points.

Proposer A submitted a proposed cost of \$200 and received 15 points using the cost formula. The Screening Committee's average confidence rating of this proposed cost is 80%. Multiply .80 by 15 points and the result is 12. The final rating of this cost proposal is 12.

Proposer B submitted a proposed cost of \$250 and received 12 points using the cost formula. The Screening Committee's average confidence rating of this proposed cost is 100%. Multiply 1.00 by 12 points and the result is 12. The final rating of this cost proposal is 12.

#### **■** Final Ratings of Proposals

To calculate the final rating of proposals, simply add together the final rating of the main proposal and the final rating of the cost proposal. After determining the total proposal ratings for all proposals, rank the ratings in descending order to determine the three top ranking Proposers.

## (i) More Information

Appendix P, "Rating Sheets," page 96 - D Sample Document Appendix Q, "Evaluation Plan," page 101 - [ Sample Document Appendix X, "Reference Check Form," page 113 - [ Sample Document Appendix Y, "Meetings with Proposers," page 114

### 39. Contractor Selection

According to State statutes, the Screening Committee must report the names of the three top ranking Proposers to the Agency Head, who must select the Contractor from among these names. In other words, there is a direct reporting relationship between the Screening Committee and the Agency Head. No other agency personnel shall have any part in reviewing or rating proposals or in determining the names of the three top ranking Proposers. After receiving the three names from the Screening Committee, the Agency Head may, however, consult with the Screening Committee or other agency personnel in making a decision about which Contractor to select.

The Screening Committee's report to the Agency Head should be succinct, yet contain enough detail so that the Agency Head feels comfortable about the integrity of the process and the recommendations being made. Since the report will also serve as part of the official record of the process, it is important that it accurately reflect what occurred. The report must contain the names of the three top ranking Proposers and their final ratings. The Chair of the Screening Committee submits the report to the Agency Head.

After reading and considering the recommendations in the report, an Agency Head may select the Contractor from among the three top ranking Proposers. It is advisable that an Agency Head document (i.e., put in writing) the reason(s) for selecting a particular Proposer. This is especially important when the top ranking Proposer is not selected – that is, when a second or third ranking Proposer is selected over a higher ranking one. The selected Proposer is then given the opportunity to negotiate a contract with the agency. Such negotiations may, but do not automatically, result in a contract.



## Important Notes

An Agency Head has the prerogative to reject any or all of the three top ranking Proposers. However, if an Agency Head does not wish to select one of the top three, no Proposer must be selected and the RFP process must be voided. An Agency Head may also void the RFP process for other reasons, such as a lack of adequate funding or some unforeseen change in an agency's circumstances or requirements.

> If an agency receives fewer than three acceptable proposals in response to an RFP. then the Contractor selection process is considered to be a sole source purchase. If the anticipated cost of the PSA is more than \$50,000 or the anticipated term is more than one year, an agency must receive approval from the Secretary of OPM before the Agency Head selects a Contractor. To apply for approval, an agency must submit OPM's form entitled, "Request For Non-Competitive Personal Service Agreement." It is available on OPM's website at http://WEB ADDRESS. The information submitted on the form must demonstrate to the satisfaction of the Secretary that (1) an agency took all reasonable means to obtain at least three responses to its RFP or (2) the requested service can only be provided by less than three sources.

After the Agency Head selects the Proposer, the selected Proposer must be notified. The other Proposers must be notified about the outcome and thanked for their interest and participation. The Team is then debriefed and disbanded. Contract negotiations may begin at once with the selected Proposer.

## STANDARDS AND PROCEDURES ■ Phase III: Contracting

## 40. Summary of Phase III

If fewer than three acceptable proposals were submitted in response to the RFP, an agency must submit a request for a non-competitive PSA to OPM *before selecting a Contractor*. If OPM approves the request, an agency may then select a Contractor and negotiate the PSA ("contract"). Upon award of the PSA, an agency may be required to submit a report to CHRO.

If the PSA is with an individual and exceeds \$3,000, an agency must submit the contract to DAS/Personnel for approval.

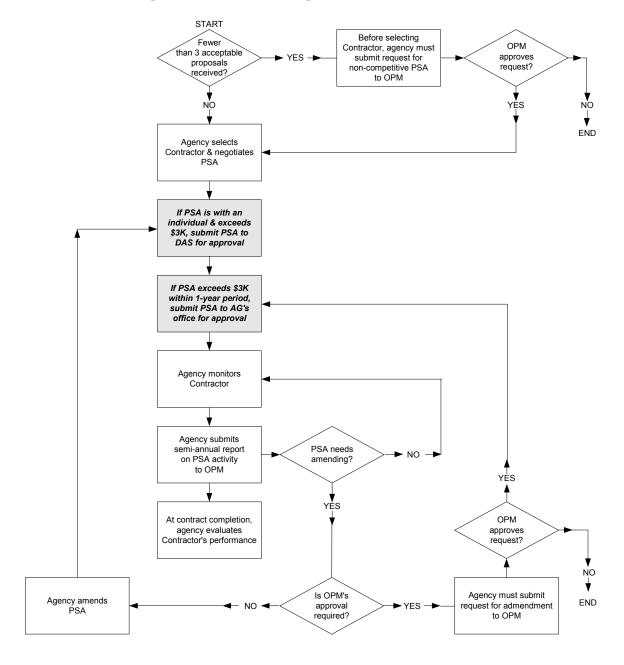
➤ If a PSA exceeds \$3,000 within a one-year period, an agency must submit the contract to the AG's office for approval. For any large State contract – defined as more than \$500,000 in a calendar or fiscal year—an agency must attach a "contract affidavit" signed by the Contractor and a "certification" signed by the Agency Head attesting to their conduct during the contracting process. In the event a contract is awarded on a noncompetitive (i.e., sole source) basis and a "proposal affidavit" was not submitted, a Contractor must also submit a "no previous proposal affidavit." When approved by the AG's office, a contract is deemed to be fully executed and the Contractor may begin work. A Contractor must not begin work without a fully executed PSA in place.

If the PSA needs to be amended after it is fully executed, an agency may need to request approval from OPM under certain circumstances. An agency may also be required to submit the amended PSA to the AG's office for approval.

Once the actual work begins, the agency is responsible for monitoring the Contractor. Upon completion of the PSA, the agency must evaluate the Contractor's performance. Each agency is required to submit a semi-annual report on its PSA activity to OPM.

## 41. Phase III Flowchart

This flowchart depicts Phase III of the PSA process, as summarized in Section 40 above.



#### 42. Phase III Tasks

Below is a checklist of all the tasks in Phase III. All tasks in Phase III are required. Information about "required" tasks is located in this section of the document.

✓ Phase III Tasks		
<ul> <li>□ Obtain OPM approval*</li> <li>□ Negotiate and execute contract</li> <li>○ Obtain affidavit(s) from Contractor</li> </ul>	required* required required	Section 44 Section 45 Section 45
O Obtain certification from Agency Head  ☐ Monitor and evaluate Contractor  ☐ Report semi-annually to OPM  ☐ Amend PSA*	required required required required*	Section 45 Section 46 Section 47 Section 48

These tasks are required only under certain circumstances.

## 43. Phase III Timeline

Phase III Tasks	Estimated Timeline	
	Simple RFP	Complex RFP
• Obtain OPM approval*	3 weeks*	3 weeks*
Negotiate and execute contract	1 week	3 weeks
Monitor and evaluate Contractor	varies	varies
• Report to OPM	varies	varies
• Amend PSA*	varies*	varies*
Total	4 weeks	6 weeks

## 44. OPM Approval

If an agency receives fewer than three acceptable proposals in response to an RFP with an anticipated cost of more than \$20,000 or an anticipated term of more than one year, an agency must receive approval from the Secretary of OPM before the Agency Head selects a Contractor. To apply for approval, an agency must submit OPM's form entitled, "Request For Non-Competitive Personal Service Agreement." The form is available on OPM's website at http://WEB ADDRESS. The information submitted on the form must demonstrate to the satisfaction of the Secretary that (1) an agency took all reasonable means to obtain at least three responses to its RFP or (2) the requested service can only be provided by less than three sources.

#### 45. Contract Negotiation and Execution

Upon receiving any required approvals from OPM, a contract is negotiated. An agency must complete the Office of the Comptroller's form CO-802A, entitled "Personal Service Agreement," and attach additional information as necessary. The Agency Head and the Contractor must sign the form. Depending on the agency and type of service, a surety bond may be required by State statutes or one may be recommended as good business practice. Additional approvals from DAS and the Attorney General's Office. A Contractor must not begin work until the contract is fully executed.

# ■ Department of Administrative Services

If a PSA with a cost exceeding \$3,000 is with an individual, an agency must obtain a waiver from the classified service from DAS.

If a PSA is with a current State employee, an agency must complete DAS's form PER-DE-1, entitled, "Dual Employment Request." For more information, see "General Letter 14" on DAS's website at http://www.das.state.ct.us/HR/om/gl204.htm.

# ■ Office of the Attorney General

The AG's office reviews all PSAs exceeding \$3,000 within a one-year period for legal sufficiency as to form.



Important Notes

- All agencies must abide by the new State contracting requirements set forth in Public Act No. 04-245. When a large State contract – defined as more than \$500,000 in a calendar or fiscal year – is awarded, an agency must obtain a "contract affidavit" from the person, firm or corporation. This affidavit attests to whether or not any gifts were given between the date of the "proposal affidavit" and the date of contract execution. The contract affidavit must be signed by the official of the person, firm, or corporation executing the contract. If any gifts were given, the affidavit must include the name of the recipient, a description of the gift, and the value and approximate date of the gift. The Agency Head must also certify that the selection of the Contractor was not the result of collusion, gift giving, or other unethical activities. The contract affidavit and certification must be submitted along with the PSA to the AG's office.
- > Paragraph 8 of Governor M. Jodi Rell's Executive Order No. 1 requires that those who file an affidavit pursuant to Public Act 04-245 shall disclose in those affidavits all contributions made to campaigns of candidates for state-wide public office or the General Assembly. If any contributions were given, the affidavit must include the name of the recipient, a description of the contribution, and the amount/value and approximate date of the contribution. Further, any Contractor who is awarded a large State contract shall update the required affidavit on an annual basis. In the event a contract is awarded on a noncompetitive (i.e., sole source) basis and a "proposal affidavit" was not submitted, a Contractor must submit a "no previous proposal affidavit."

(i) More Information

Appendix Z, "About Surety Bonds," page 115 Attachment BB, "Public Act 04-245," page 120 Attachment CC, "Governor M. Jodi Rell's Executive Order No. 1," page 125

## 46. Contractor Monitoring and Evaluation

An agency is responsible for monitoring and evaluating its PSA Contractors. These activities can assist in identifying and reducing fiscal and programmatic risks as early as possible, thus protecting both public funds and any clients being served.

# ■ Monitoring

An agency must assign an employee (or employees) to monitor each PSA. In accordance with Governor M. Jodi Rell's Executive Order No. 1, promulgated on July 1, 2004 concerning ethical conduct when performing State business, all State employees and public officials who have responsibility for the review, award, or monitoring of State contracts must file a statement of financial interests with the State Ethics Commission under the terms provided for by C.G.S. § 1-83. This means that whoever is assigned to monitor the PSA must file such a statement before monitoring begins.

Monitoring responsibilities are defined by a guideline for implementing paragraph 6 of Governor M. Jodi Rell's Executive Order No. 1. The guideline is available from the Governor's Office.

# ■ Evaluation

Not later than 60 days after a Contractor completes work on a PSA, an agency must prepare a written evaluation of the contractor's performance. An agency must use OPM's form entitled, "Personal Service Contractor Evaluation," for this purpose. The form is available on OPM's website at http://WEB ADDRESS. The completed form must be retained in the project file.

#### 47. Reporting Requirements

Pursuant to State statutes, agencies are required to submit reports to CHRO, DAS, and OPM related to their PSA activities. The requirements are summarized below.

## ■ CHRO

Pursuant to C.G.S. § 4a-60(g), which established the "Small Contractors Set-Aside Program," each State agency is required to set as an annual goal their intention to contract with certified small contractors at least 25% of their total projected annual expenditures. The law further requires that one quarter (or 6.25% of the total projected annual expenditures) be with certified minority business enterprises. DAS is responsible for certifying an applicant as a (1)

small business, or (2) a small, minority-owned business. Certification is for a two-year period and is renewable.

CHRO and DAS are authorized to monitor conformance with the set-aside program. On a quarterly basis, each State agency must prepare a status report on the implementation and results of its small business and minority business enterprise set-aside goals. The report must be submitted to CHRO and the Commissioner of DAS. Additional information about this program and its reporting requirements is available on CHRO's website at http://www.state.ct.us/chro/metapages/legalprot/lp--CC.htm.

## ■ Office of Policy and Management

State statutes require an agency to submit various reports to the Secretary of OPM related to PSA activity. Not later than September 1 of each year, the Secretary of OPM must submit a report to the General Assembly summarizing the data and information received from State agencies. Any agency not fulfilling the statutory reporting requirements will be listed as "non-compliant" in OPM's report to the General Assembly. The reporting requirements for the various types of PSAs are as follows:

- PSAs with:
  - (A) Cost of \$20,000 or less; and
  - (B) Term of 1 year or less

All State agencies must submit semi-annual reports to OPM for this type of PSA. The two reporting periods are for the six-month periods ending on June 30 and December 31. The reports are due within 30 days of the end of each period. For each PSA executed or otherwise in effect during the six-month period, the following information must be reported:

- (1) name of the Contractor;
- (2) description of the services provided (or to be provided);
- (3) term and cost of the PSA;
- (4) method of selecting the Contractor;
- (5) amount of all payments made during the six-month period, by fund; and
- (6) amount of any federal or private funds allocated for such payments.

- PSAs with:
  - (A) Cost of \$20,000.01 to \$50,000.00; and
  - (B) Term of 1 year or less

All State agencies must submit the following information to the Secretary of OPM for this type of PSA at the same time that the PSA is submitted to the Commissioner of DAS or to the Attorney General for approval:

- (1) name of the Contractor;
- (2) description of the services provided (or to be provided);
- (3) term and cost of the PSA;
- (4) method of selecting the Contractor;
- (5) State fund from which the Contractor will be paid; and
- (6) whether any federal or private funds will be allocated for such payments.

#### PSAs with:

- (A) a person, firm, or corporation providing "contractual services," as defined in C.G.S. § 4a-50;
- (B) a "consultant," as defined in C.G.S. § 4b-55; or
- (C) an agency of the federal government, of the State or of a political subdivision of the State

All State agencies must submit semi-annual reports to OPM for this type of PSA. The two reporting periods are for the six-month periods ending each June 30 and December 31. The reports are due within 30 days of the end of each period. For each PSA executed or otherwise in effect during the six-month period, the following information must be reported:

- (1) name of the Contractor;
- (2) description of the services provided (or to be provided);
- (3) term and cost of the PSA;
- (4) method of selecting the Contractor;
- (5) amount of all payments made during the six-month period, by fund; and
- (6) amount of any federal or private funds allocated for such payments.

A State agency utilizing *contractual services* hired by using a purchase order approved and committed by the State Comptroller is not required to submit a report to OPM.

- PSAs with:
  - (A) a "consultant," as defined in C.G.S. § 13b-20b; or
  - (B) an agency of the federal government, of the State or of a political subdivision of the State

The State Department of Transportation must submit semi-annual reports to OPM for this type of PSA. The two reporting periods are for the six-month periods ending each June 30 and December 31. The reports are due within 30 days of the end of each period. For

each PSA executed or otherwise in effect during the six-month period, the following information must be reported:

- (1) name of the Contractor;
- (2) description of the services provided (or to be provided);
- (3) term and cost of the PSA;
- (4) method of selecting the Contractor;
- (5) amount of all payments made during the six-month period, by fund; and
- (6) amount of any federal or private funds allocated for such payments.

#### 48. Amendments

Under certain circumstances, an agency may wish to modify an existing PSA through an amendment. An amendment is formal modification, deletion, or addition to the existing contract that is negotiated and agreed upon by both parties. All amendments must be executed before the original termination date of the contract.

An amendment to an existing PSA requires approval of the Secretary of OPM when:

- (a) the cost of the original PSA is greater than \$50,000; or
- (b) the amendment has a cost of one hundred percent or more of the cost of the original PSA; or
- (c) the amendment increases the cost of the PSA to more than \$50,000; or
- (d) the amendment extends the term of the PSA beyond a one-year period; or
- (e) the amendment is the second or subsequent amendment to the PSA.

To apply for approval from the Secretary, an agency must submit OPM's form entitled, "Request for Amendment." The form is available on OPM's website at http://WEB ADDRESS. The Secretary shall approve or disapprove a proposed amendment after receiving the request form and any necessary supporting information.

Amended PSAs exceeding \$3,000 must be approved by the AG's office. A copy of the original contract must accompany the amended contract.

If the original contract is with an individual, a letter of notice must be sent to the appropriate State employee union if that individual's contract is being extended beyond one year. Copies of the notice must also be sent to DAS/Personnel and the CT General Assembly's Labor and Public Employees Committee.



### Important Note

An agency is strongly advised to review the status of a PSA well in advance of the expiration date in order to determine if any changes are needed. An expired PSA cannot be amended. It is OPM's policy to disapprove any request to amend an expired PSA.

### **GLOSSARY**

• Agency Head – a State government official who is in charge of the overall direction of a department, board, office, council, or commission within the executive branch

- *amendment* any modification, deletion, or addition to a Request For Proposal, Personal Service Agreement, evaluation plan (etc.)
- *Bidder* a person, firm or corporation submitting a competitive bid in response to a competitive solicitation
- *Bidders' conference* a meeting organized by a State agency for the express purpose of answering questions from potential Bidders about a recently issued competitive solicitation; see *Proposers' conference*
- *clarifying question* a question asked of a Proposer by the Screening Committee about a confusing or misunderstood aspect of a proposal; an answer may amplify an aspect of a proposal, but must not change the nature or scope of a proposal
- *communications procedures* the process established by the agency to handle communications from outside parties about the RFP
- *competitive bidding* the submission of prices by persons, firms or corporations competing for a contract to provide supplies, materials, equipment or contractual services, under a procedure in which the contracting authority does not negotiate prices
- competitive negotiation a method for contracting for services, whereby (A) proposals are solicited from qualified persons, firms or corporations by a request for proposals and (B) changes may be negotiated in proposals and prices after being submitted
- *competitive quotation* the oral or written price for purchasing a given service or product from a responsible source of supply
- *competitive solicitation* competitive bidding or competitive negotiation
- *conflict of interest* a situation in which a public official's decisions are influenced by the official's personal interests
- contract see Personal Service Agreement
- Contractor see Personal Service Contractor
- contractual services any and all laundry and cleaning service, pest control service, janitorial service, security service, the rental and repair, or maintenance, of equipment, machinery and other state—owned personal property, advertising and photostating, mimeographing, and other service arrangements where the services are provided by persons other than State employees
- *deliverable* the service or product required from a Contractor; outcome

- *elimination round* the process established in the evaluation plan for reducing the number of proposals reviewed and rated by the Screening Committee
- *ethics and confidentiality agreement* a formal statement signed by participants in an RFP process promising to conform to ethical standards of conduct and to keep confidential all information related to the process
- evaluation plan the process established by an agency for reviewing and judging the proposals submitted in response to an RFP
- executed Personal Service Agreement (PSA) a contract that has been signed by the State agency, Contractor, and, if applicable, the Office of the Attorney General
- *inquiry procedures* the process established by an agency to respond to requests for information from an individual, firm, or corporation about the RFP
- *legal notice* a written announcement designed to publicize an agency's issuance of an RFP
- *letter of intent* a letter written by an individual, firm or corporation to a State agency stating that a proposal may be submitted in response to an RFP
- *minimum submission requirements* the essential conditions that a proposal submitted in response to an RFP must satisfy in order to be eligible for review
- numerical rating system the criteria with assigned weights used in reviewing proposals
- Official Agency Contact the agency employee who is responsible for handling communications about an RFP with outside parties
- *orientation meeting* a formal gathering of the RFP "team" where instructions and essential information about the RFP process and procedures are given
- *outline of work* a overall account of a project, including the purpose, scope, activities (tasks), outcomes (deliverables), and work schedule (timeline)
- payment bond a financial guarantee that subcontractors of a Contractor will be paid for labor and materials
- *performance bond* a surety bond posted by a Contractor guaranteeing full performance of a contract with the proceeds to be used to complete the contract or compensate for the State agency's loss in the event of nonperformance
- Personal Service Agreement (PSA) a written agreement (contract) defining the service to be delivered by a Personal Service Contractor to a State agency
- *Personal Service Contractor* any person, firm or corporation not employed by the State, who is hired by a State agency for a fee to provide a service to the agency

• *Process Advisor* – an individual chosen by the Agency Head to advise and make recommendations to the RFP Team during the RFP process

- *project file* the official records of the PSA process that serve to document important activities and decisions associated with that process
- proposal a written response to an RFP
- *Proposer* a person, firm or corporation submitting a proposal to a State agency in response to an RFP
- *Proposers' conference* a meeting organized by a State agency for the purpose of answering questions from potential Proposers about a recently issued RFP; sometimes called a *pre-proposal conference* or *Bidders' conference*
- *rating sheet* a standardized form or spreadsheet used by the Screening Committee when reviewing proposals
- reference check form a standardized set of questions asked a reference when verifying a Proposer's qualifications
- Request For Proposals (RFP) the solicitation communication used in the competitive negotiation process
- Request For Qualifications (RFQ) the solicitation communication used for the purpose of identifying qualified individuals, firms, or corporations to provide a service to an agency
- resource library a place where supplementary materials (such as reports or other information) pertaining to an RFP are made available to interested Proposers
- review criteria the list of factors used to evaluate proposals
- *Screening Committee* the group of individuals who evaluate the proposals submitted in the response to an RFP
- Secretary the Secretary of the Office of Policy and Management
- *sole source* a Contractor who is selected on a noncompetitive basis or who is the single provider of a particular service
- Standardization Committee a group comprised of three Under Secretaries or Directors of the Office of Policy and Management charged with the responsibility for reviewing all agency requests for waivers from competitive solicitation submitted to the Secretary by State agencies
- State State of Connecticut

- *State agency* a department, board, council, commission, institution or other agency of the executive branch of State government
- *surety* a bond guaranteeing performance of a contract; an obligation made binding by a money forfeit; *also*: the amount of the money guarantee
- *Team* all the individuals involved in the RFP process, including those who write the RFP and evaluation plan, the members of the Screening Committee, Process Advisor (if used), Technical Advisors (if used), or others who participate in any capacity
- *Technical Advisor* an individual asked by the Screening Committee to provide assistance in understanding aspects of proposals requiring special knowledge or expertise
- *trade secrets* information that has independent economic value by not being generally known and can reasonably be kept hidden

### **APPENDICES**

### A. How to Develop an Outline of Work

The process described below for developing an outline of work may be modified to meet an agency's requirements:

- (1) Select an agency employee to write the outline of work. This is preferably someone who writes well, has experience with PSAs or RFPs, and is familiar with the project or subject area.
- (2) The outline must include the purpose and scope of the project, the specific tasks or activities to be performed by the Contractor, the expected outcomes (i.e., results or deliverables), and a tentative schedule of when the work will be done. Include a "Definitions" section if any uncommon or technical terms or acronyms are used.
- (3) If the project must adhere to any State or federal laws, regulations, or policies, they should be referenced or explained in the outline of work.
- (4) If appropriate, seek the advice and opinions of interested stakeholders (such as agency employees, clients, or constituents) before starting to write the outline. Their input can be obtained through whatever means an agency prefers, such as interviews, meetings, questionnaires, or email.
- (5) Write a draft and distribute it for comment within the agency, as appropriate. The draft may surface differences of opinions. This is normal and provides an opportunity to clarify matters.
- (6) Revise and re-distribute the draft for comment, as many times as necessary, until agreement is reached. While drafting the outline can become tedious if multiple rewrites are necessary, the time and effort are well spent. The better the outline of work, the easier the later steps in the process will be. If agreement over the outline cannot be reached, it may need additional thought or major rewriting or the agency may not be ready to pursue the project at this time.
- (7) Get an impartial opinion on the final draft. If time allows, have someone (within the agency) who is unfamiliar with the subject area and uninvolved with the process read the outline. The goal is to make the outline comprehensible to the average, intelligent reader.
- (8) Obtain required approvals. Once agreement is reached on the draft, submit the draft to the appropriate level of agency management for final approval before proceeding any further.

The outline of work may be structured to meet the requirements of an agency's RFP. The sample outline below may be modified as necessary:

- Purpose
- Scope
- Activity 1 (describe work effort)
  - o Deliverable 1 (describe outcome of work effort)
  - o Due Date 1 (establish due date of deliverable)
- Activity 2
  - o Deliverable 2
  - o Due Date 2
- Etc.
- Work Schedule

If the agency will be providing the Contractor with any in-kind resources (e.g., space, personnel), include this information in the outline of work. Also, be certain to reference any State or federal laws or regulations that may apply to the project.

#### B. How to Determine the Deliverables

Deliverables are the specific outputs, outcomes, or results that the agency wishes the Contractor to produce over the term of the contract. The deliverables are directly linked to the activities (tasks) enumerated in the outline of work. For example, if one of the requested activities is an evaluation of an agency program, then the deliverable might be a written report with findings and recommendations on such. The effort expended in linking the activities to deliverables will be rewarded later, when the list of deliverables may be used as the basis of a Contractor's payment schedule. Rather than simply paying the Contractor on a monthly or quarterly basis, the Contractor could be paid upon the completion of specified deliverables (e.g., the *draft* and *final* versions of the evaluation report).

#### Examples of deliverables:

- Research, studies, audits, program evaluations;
- Management, legal, financial advice or assistance;
- Communications advice and assistance, including public relations or publicity;
- Personnel training, testing, evaluation;
- Workshops, conferences, or other events;
- Plans, reports, manuals;
- Measurable changes in agency operations; or
- Implementation of a new activity or program.

## C. How to Develop a Cost Estimate

One way to develop a cost estimate is to research the current prices of the desired service in the immediate marketplace. It is recommended that an agency investigate and analyze the prices paid to Contractors by other State agencies for the same or similar service. If this is not possible (for whatever reason), an agency may need to look at prices paid in the broader marketplace by other State or county governments. Another option is to seek the advice of an expert in the field about prevailing prices.



### Important Note

Any expert who provides technical assistance at this or any other point in the process must be disqualified from later submitting a proposal in response to the RFP.

Yet another way of developing a cost estimate is to determine the "in-house" cost of providing the desired service. In other words, what would be the direct costs to the agency if its own employees provided the service? What type of expertise would be required? How many agency employees would be needed? Over what period of time? What would be the cost of their salaries and fringe benefits? Would there be other associated expenses, such as computer time, travel, equipment, or supplies? An agency would also need to calculate the indirect costs, such as those associated with administration, physical plant operations, and worker's compensation. When all the direct and indirect costs are added up, the sum would provide a "ballpark" estimate of what a Contractor may expect to receive to do the work.

If the cost estimate for the service exceeds the agency's spending limit, the project should be adjusted (scaled back). Alternatively, the agency may fix in advance the maximum amount it is willing or able to pay a Contractor. The submitted proposals would specify what level of service the Contractor would provide in exchange for that amount of money.

#### D. How to Determine the Contract Term

When determining the term of the contract, consider what impact (if any) the factors listed below may have:

- *Competition.* Is the desired service readily available in the marketplace? Are there multiple potential providers? Would more frequent competition (i.e., shorter-term contracts) result in lower costs and higher quality deliverables?
- Monopoly. This factor is related to competition (above). Entering into a longer-term
  contract may unintentionally create a monopoly that would eliminate competition
  and possibly increase costs over time. This is an important consideration if an
  agency intends to contract out again for the service in the future.
- Cost Impact. If the initial cost of providing the service is large, it may take years for a Contractor to recoup the initial outlay. To encourage responses to the RFP, longerterm contracts may be necessary to allow for recovery of the initial investment. Is the agency willing and able to make a longer-term commitment to a single Contractor?

- Accountability. Longer-term contracts demand greater agency oversight and present a greater probability that changing circumstances may necessitate changes in the original outline of work.
- Risk. How great is the chance that the Contractor will fail to provide the service? If the service is interrupted, discontinued, or not delivered, what will be the consequences to the public and State government? The longer the term of the contract, the greater the potential of such a failure.

## **How to Select the Screening Committee**

Reviewing the proposals submitted in response to an agency's RFP might be the most important – and sensitive – task in the entire process. The agency depends on the Screening Committee to do a thorough and professional job on its behalf. The Proposers depend on the Committee to review their proposals in a fair and impartial manner. Some factors to consider when selecting the Screening Committee are listed below:

Selection Factors – Committee Members

- Expertise. Individuals who have special knowledge of the RFP's subject matter are essential. In addition, these individuals should have the ability and willingness to share their knowledge with other Committee members.
- Availability. The individuals must be able to commit to the time and work requirements of the Committee. Members are expected to attend every meeting.
- *Perspective.* The individuals should understand where the project fits within the agency's mission and organization. While they may not know the day-to-day details, an ability to place the project in an overall context is valuable. An open mind is also needed to fairly and impartially judge the proposals.
- *Professional Standards*. Individuals who have a reputation for good judgment, integrity, and honesty are needed.
- End Users. Individuals who will be the ultimate consumers (users) of the service should be involved. This may be an agency employee who works directly with clients.
- Other Agencies. If the agency partners or coordinates with another State agency with respect to the service covered by the RFP, it makes sense to include someone from the partnering or coordinating agency on the Committee.
- Size and Number. The Committee should not have too few or too many members. Three is the minimum and five is the optimal number, allowing for multiple viewpoints without creating logistical difficulties. An odd number avoids tie votes.

• Reporting Relationships. Committee members should feel free to voice their opinions. For this reason, it is best to avoid having individuals in direct reporting relationships on the Committee.

• *Diversity*. The Committees should be comprised of individuals with differing backgrounds, perspectives, experience, and skill sets.

The Agency Head (or designee) must appoint the Chair of the Screening Committee. Factors to consider when making this selection are as follows:

Selection Factors – Committee Chair

- Facilitation Skills. The Chair should have the ability to lead and guide a discussion, so that all members have an opportunity to participate and contribute to the process.
- Agency Support. The Chair should have the full trust and confidence of the Agency Head.
- Availability. While availability is an issue for all Committee members, it is even
  more important for the Chair. The Chair's responsibilities are substantial and will
  require a considerable time and work commitment.
- Attention To Detail. The responsibilities of the chair include, but are not limited, to implementing the evaluation plan, calling and facilitating meetings and work sessions, and coordinating communications. The Chair should be able to manage multiple priorities, adhere to a timeline, and keep tract of all the details.

### F. About the Process Advisor

If the process is expected to be complicated or contentious, a Process Advisor may be appointed. The role of the Process Advisor is to make sure the Team follows the RFP standards and procedures every step of the way, thereby assuring the best possible result. The Process Advisor should be able to understand the RFP's subject matter, yet stay focused on the process (rather than the content). By definition, the Process Advisor should be someone who has extensive experience in conducting RFPs. The Process Advisor should be appointed by and report to the Agency Head (or designee).

### Responsibilities:

- *Monitoring Activities*. The Process Advisor participates in all Team meetings, including any Proposers' conference, meetings with Proposers, or other situations where the Team has face-to-face contact with Proposers.
- Giving Advice. The Process Advisor helps the Team develop the evaluation plan and, during implementation, alerts the Screening Committee to any deviations from the plan. If the evaluation plan (i.e., review process) needs to be changed in midstream for whatever reason, the Process Advisor writes a statement describing the change, which should be adopted by a three-quarters (3/4) majority vote of the Committee.

- Ensuring Fairness and Impartiality. The Process Advisor makes sure that all Proposers are treated equally and without bias. The Advisor also safeguards the Team – especially the Screening Committee – against any undue (outside) influences.
- *Tallying Ratings.* The Process Advisor does not read the submitted proposals, express opinions on their merits, or rate them. When the Screening Committee is ready to rate the proposals, the Process Advisor may assist the Chair in conducting the session, tallying the ratings, and determining the final rank order of the proposals.

#### G. About Technical Advisors

Technical Advisors are used if the Screening Committee needs assistance, in the form of special knowledge or expertise, in understanding the RFP's subject matter. Technical advisors may also help Committee members in understanding the financial aspects of proposals, such as a Proposer's financial condition or the proposal's cost. Advisors serve at the pleasure of the Committee and provide advice only. Their involvement is limited to responding to specific requests for information from the Committee. Advisors are not involved in the review and rating of proposals. Advisors are not privy to the criteria weights and are not present during the Screening Committee's deliberations over proposals or during sessions where the proposals are rated and ranked. They should be instructed not to express any opinions about the relative merits of the proposals (i.e., "This one is better than that one.") The responsibility for making such judgments rests exclusively with the Screening Committee. While the Advisors are assets to the Committee and the review process, they should be as few as possible.

The Chair, in consultation with Committee members, decides if it is necessary to photocopy proposals or parts of proposals for use by Technical Advisors. Only the Chair should be authorized to photocopy proposals or have additional photocopies made. Once the Advisors have completed their work, the photocopies should be returned to the Chair.

## H. Orientation Meeting

Team members will need an orientation following their selection. The purpose of the orientation meeting is to acquaint the Team members with all aspects of the current RFP. Orienting the Team is time well spent. The members will be more likely to work well together when they understand their roles and responsibilities, as well as the RFP process, standards, and procedures. Some members may have no experience with RFPs; others may be "old hands." In either case, the members need to be briefed about the *current* RFP and the current process, standards, and procedures.

If any outsiders participate in the orientation meeting, be certain that they are not involved in any way with any potential Proposer.

### Possible Agenda Topics:

Purpose. An overview of what the agency hopes to accomplish by conducting the RFP process.

- Subject Matter. More detailed or technical explanation of the service that the agency is procuring through the RFP.
- *Process*. The steps in the RFP process, including the associated standards and procedures, and the anticipated timeline.
- Roles and Responsibilities. The roles and responsibilities of the various Team members.
- Ethics and Confidentiality. Instructions about the need for ethical behavior and confidentiality.
- Legal Considerations. Information about any law or regulation pertaining to the RFP, including the Freedom of Information Act (FOIA).
- Communications. The prohibition against communications of any sort about the RFP process with outside parties.

## **Ethics and Confidentiality Agreement**



Sample Document

This sample document may be modified to meet an agency's requirements. Such a form should be completed and signed by all individuals who participate in the RFP process, including, but not limited to, those who write the RFP and evaluation plan, those who review and rate proposals (i.e., the Screening Committee), the Official Agency Contact, the Process Advisor, and Technical Advisors.

The Initial Agreement is completed and signed when an individual joins the Team. The Endorsement is completed and signed after the proposals are opened and the identities of the Proposers become known.

Agency Name ETHICS AND CONFIDENTIAL	
REQUEST FOR PROPOSAL NAME:	
I, ( <i>Print Full</i> and attest that neither I nor any member of my immedia has any personal or financial interests in the outcome o	Name), by my signature below, declare atte family, as defined by C.G.S. § 1-79(f), f this Request For Proposal (RFP) process.
I believe in good faith that my participation in this RFF conflict of interest or breach of ethics under the provisi 1-84 and § 1-85).	
Should my participation in this RFP process include the that I have not been and shall not be subject to any und objective review and rating of the proposals submitted	ue influence that would affect my fair and
I agree not to accept any gifts, gratuities, meals, or rein Proposer who responds to this RFP or from any other p financial interests in the outcome of this RFP process.	abursements in any form or value from any earty having a personal, professional, or
I also agree not to participate in any <i>ex parte</i> communic this RFP or with any other party having a personal, pro outcome of this RFP process, except as provided for by plan.	fessional, or financial interests in the
Finally, I agree to maintain the confidentiality of all infresult of my participation in this RFP process.	Formation and materials that I receive as a
Signed:	Date:
Subscribed and sworn to,	
Before me, this day of July, 2004	Notary Public Commissioner of Superior Court
Commission Expires	
Endorsement:	Date
I declare and affirm that, to the best of my knowledge, immediate family, as defined by C.G.S. § 1-79(f), has a interests in any Proposer that has responded to the above	any personal, professional, or financial
Signed:	Date:
Subscribed and sworn to, Before me, this day of July, 2004	Notary Public Commissioner of Superior Court
Commission Expires	Date

#### J. RFP Outline



Below is a sample outline of an RFP. It is provided for illustrative purposes only. An agency may organize its RFP differently, adding or deleting items to meet its own requirements. Certain items are required by State statutes or OPM's standards for PSAs. Required items are indicated with an asterisk.\* Only optional items may be deleted from an agency's RFP.

- 1. Legal Notice\*
- 2. Table of Contents
- 3. Background Statement (or Project Summary)
- 4. Outline of Work\*
- 5. Contract Term\*
- 6. Contractor Qualifications\*
- 7. Submission Deadline\*
- 8. Review Criteria\*
- 9. Instructions\*
  - a. Official Agency Contact\*
  - b. Proposer's Representatives\*
  - c. Communications Notice\*
  - d. RFP Timeline (Schedule of Events)\*
  - e. Inquiry Procedures\*
  - f. Letter of Intent
  - g. Proposers' Conference
  - h. Resource Library
  - i. Confidential Information\*
  - j. Affidavit Concerning Gifts and Campaign Contributions\*
  - k. Minimum Submission Requirements\*
  - 1. Multiple Submissions
  - m. References\*
  - n. Affirmations Concerning Contract and Conditions\*
  - o. Contract Compliance Requirements\*
  - p. Style Requirements
  - q. Packaging and Labeling Requirements\*
  - r. Meetings with Proposers
  - s. Surety Bond
- 10. Required Format for Proposals\*
- 11. Letter of Intent Form
- 12. RFP Conditions\*
- 13. Standard Contract and Conditions\*
- 14. Contract Compliance Requirements\*
  - a. Contract Compliance Notification to Bidders
  - b. Acknowledgement of Contract Compliance Notification to Bidders
  - c. Workforce Analysis Affirmative Action Report

#### **K.** Instructions for Proposers



An RFP must include clear and unambiguous instructions for Proposers about how to comply with the RFP process and how to submit an acceptable proposal. More specifically, an RFP must include instructions for all components required by State statutes, OPM's standards, and the State's contract compliance requirements. If an RFP includes any additional components, an agency must also provide instructions for those components.

The sample instructions below are for illustrative purposes only. An agency may modify the instructions to suit the requirements of its RFP. Modified instructions must meet the requirements set forth in State statutes, OPM's standards, and the State's contract compliance requirements. Required items are indicated with an asterisk.\*

- \*Official Agency Contact. The Official Agency Contact for the purposes of this RFP is (name), who may be reached via (US mail, email address, fax number, telephone *number*). All communications with the agency must be directed to the Official Agency Contact.
- b. \*Proposer's Representatives. Proposers must designate an authorized representative and one alternate. Provide the name, title, address, telephone and FAX numbers, email address, and normal working hours for each representative.
- c. \*Communications Notice. All communications with the agency or any person representing this agency concerning this RFP are strictly prohibited, except as permitted by this RFP. Any violation of this prohibition by Proposers or their representatives may result in disqualification or other sanctions, or both.
- d. \*RFP Timeline (Schedule of Events). The following timeline, up to and including the deadline for submitting proposals, shall be changed only by an amendment to this RFP. Dates after the deadline are target dates only.

Month Day, Year RFP Released Month Day, Year Letter of Intent Due Proposers' Conference Month Day, Year Month Day, Year Deadline for Questions Month Day, Year Official Answers Released

Month Day, Year & Time Deadline for Submitting Proposals

Month Day-Day, Year Meetings with Proposers Month Day, Year Contractor Selection

Month Day, Year Start of Contract Negotiations

Month Day, Year Start of Contract

e. \*Inquiry Procedures. Proposers may submit questions about the RFP to the Official Agency Contact on or before (*date*). Questions must be in writing and submitted by US mail, facsimile, or email. Questions will not be accepted over the telephone. Anonymous questions will not be answered. The agency reserves the right to provide a combined answer to similar questions. The agency will distribute official answers to the questions, in the form of a written amendment, not later than (date) to all Proposers who submitted a letter of intent. Any Proposer who has not received the amendment within

two business days following the distribution date may contact the Official Agency Contact by telephone to request a copy. Any and all amendments to this RFP will be posted on (*date*) on the agency's website at (*agency's web address*).

- f. Letter of Intent. Any Proposer intending to respond to this RFP must submit a Letter of Intent to the Official Agency Contact by US mail or facsimile not later than (time and date). A letter of intent sent by email will not be accepted, as the agency requires the signature of the Proposer. The letter of intent is non-binding, in that the Proposer is not required to submit a proposal. The purpose of the letter of intent is to enable the agency to send interested Proposers new information concerning this RFP in a timely manner. Complete and submit the attached Letter of Intent form.
- g. *Proposers' Conference*. A Proposers' conference will be held on (*date*, *time*, *location*). Neither advance registration nor attendance is required.
- h. Resource Library. The agency wishes Proposers to consider previous studies and reports related to this project. A resource library with these documents has been created in our Central Office. Call the Official Agency Contact to make an appointment to use the library. Some, but not all, of these reports are available on the agency's website at http://WEB ADDRESS.
- i. \*Confidential Information. Proposers are advised not to include in their proposals any proprietary information. The Connecticut Freedom of Information Act generally requires the disclosure of documents in the possession of the State upon request of any citizen, unless the content of the document falls within certain categories of exemption. An example of an exemption is a "trade secret," as defined by statute (C.G.S. § 1-19(b)(5)). If the information is not readily available to the public from other sources and the Proposer submitting the information requests confidentiality, then the information generally is considered to be "given in confidence." Confidential information must be isolated from other material in the proposal and labeled CONFIDENTIAL.
- j. \*Affidavit Concerning Gifts and Campaign Contributions. Pursuant to Public Act 04-245, all Proposers must provide a signed affidavit attesting to whether or not gifts were provided to certain public officials or State employees during the two-year period preceding the submission of a proposal. In addition, pursuant to paragraph 8 of Governor M. Jodi Rell's Executive Order No. 1, anyone who files an affidavit pursuant to Public Act 04-245 shall disclose in those affidavits all contributions made to campaigns of candidates for state-wide public office or the General Assembly. Further, any Contractor who is awarded a large State contract shall update the affidavit on an annual basis.
- k. \*Minimum Submission Requirements. At a minimum, proposals must (1) be submitted before the deadline, (2) follow the required format, (3) satisfy the packaging and labeling requirements, and (4) be complete. Proposals that fail to meet these minimum submission requirements may be disqualified and not reviewed further.
- 1. *Multiple Submissions*. Multiple proposals by the same Proposer will be considered. A Proposer may submit a maximum of two (2) proposals in response to this RFP.

- m. \*References. Include three letters of reference from recent clients. Provide the following information for each reference: name, title, company address, and phone number.
- n. \*Affirmations Concerning Contract and Conditions. Include a written statement that the Proposer has read and accepts the RFP's conditions and the agency's standard contract in their entirety and without amendment.
- o. \*Contract Compliance Requirements. The State of Connecticut is an Equal Opportunity and Affirmative Action employer and does not discriminate in its hiring, employment, or business practices. The State is committed to complying with the Americans with Disabilities Act of 1990 (ADA) and does not discriminate on the basis of disability, in admission to, access to, or operation of its programs, services, or activities.

Complete and attach the following forms required by the State of Connecticut's contract compliance requirements: (1) Acknowledgement of Contract Compliance Notification to Bidders; and (2) Workforce Analysis Affirmative Action Report.

Provide evidence of the Proposer's ability to meet the contract compliance requirements for one or more of the following factors: (1) success in implementing an affirmative action plan; (2) success in developing an apprenticeship program complying with §§ 46a-68-1 to 46a-68-17, inclusive, of the Regulations of Connecticut State Agencies; (3) promise to develop and implement a successful affirmative action plan; (4) submission of EEO-1 data indicating that the composition of the Proposer's workforce is at or near parity in the relevant labor market area; or (5) promise to set aside a portion of the contract for legitimate minority business enterprises.

- p. Style Requirements. Proposals must conform to the following requirements: (1) be word processed or typewritten, (2) be printed on not less than 20 lb. white paper, (3) use Times New Roman font type and a font size of not less than 10 or not more than 12 points, (4) have margins of not less than 1" on the top, bottom, and sides of all pages, (5) be not more than 20 pages in length, including any attachments, (6) use endnotes, if necessary, rather than footnotes, (7) display the Proposer's name on the header of each page, and (8) be numbered at the bottom of each page.
- \*Packaging and Labeling Requirements. All proposals must be submitted in sealed envelopes or packages. All proposals must be addressed to the Official Agency Contact. The name and address of the Proposer must appear in the upper left hand corner of the envelope or package. An original (clearly identified as such) and number (e.g., six) conforming copies of the proposal must be submitted. The proposal must be signed by the Authorized or Alternate Representative. In a transmittal letter accompanying the proposal, the Proposer must state that the proposal is submitted with full knowledge and acceptance of the RFP conditions and the agency's standard contract and conditions. The transmittal letter must be signed by the Proposer or the Proposer's Representative. Unsigned proposals will be rejected. Proposals transmitted by facsimile will not be accepted or reviewed.

r. Meetings with Proposers. At its discretion, the agency may convene meetings with Proposers in order to gain a fuller understanding of the proposals. The meetings may involve demonstrations, interviews, presentations, or site visits. If the agency decides meetings are warranted, the Official Agency Contact will telephone Proposers to make an appointment. Any such meetings are tentatively scheduled for the week of Month Day -Day, Year.

s. Surety Bond. Include a statement that the Proposer is willing and able to furnish a performance bond in the amount of \$250,000 upon award of a contract.

#### **RFP Conditions**



Sample Document

The sample document below is provided for illustrative purposes only. The individual(s) responsible for writing the RFP should check with the agency's business office or legal counsel to determine what conditions to include in the RFP.

- 1. All proposals in response to this RFP are to be the sole property of (agency name). Proposers are encouraged not to include in their proposals any information that is proprietary. All materials associated with this procurement process are subject to the terms of State laws defining freedom of information and privacy and all rules, regulations and interpretations resulting from those laws.
- 2. Any product, whether acceptable or unacceptable, developed under a contract awarded as a result of the RFP is to be the sole property of (agency name).
- 3. Timing and sequence of events resulting from this RFP will ultimately be determined by (agency name).
- 4. The Proposer agrees that the proposal will remain valid for a period of 180 days after the deadline for submission and may be extended beyond that time by mutual agreement.
- 5. (Agency name) may amend or cancel this RFP, prior to the due date and time, if (agency name) deems it to be necessary, appropriate or otherwise in the best interests of (agency name). Failure to acknowledge receipt of amendments, in accordance with the instructions contained in the amendments, may result in a proposal not being considered
- 6. The Proposer must certify that the personnel identified in its response to this RFP will be the persons actually assigned to the project. Any additions, deletions or changes in personnel assigned to the project must be approved by (agency name) or its designee, with the exception of personnel who have terminated employment. Replacements for personnel who have terminated employment are subject to approval by (agency name) or its designee. At its discretion, (agency name) may require the removal and replacement of any of the Proposer's personnel who do not perform adequately on the project, regardless of whether they were previously approved by (agency name).

- 7. Any costs and expenses incurred by Proposers in preparing or submitting proposals are the sole responsibility of the Proposer.
- 8. A Proposer must be prepared to present evidence of experience, ability, service facilities, and financial condition necessary to satisfactorily meet the requirements set forth or implied in the proposal.
- 9. No additions or changes to the original proposal will be allowed after submission. While changes are not permitted, clarification of proposals may be required by (agency name) at the Proposer's sole cost and expense.
- 10. In some cases, Proposers may be asked to give demonstrations, interviews, presentations or further explanation to the RFP's Selection Committee.
- 11. The Proposer represents and warrants that the proposal is not made in connection with any other Proposer and is in all respects fair and without collusion or fraud. The Proposer further represents and warrants that the Proposer did not participate in any part of the RFP development process, had no knowledge of the specific contents of the RFP prior to its issuance, and that no agent, representative or employee of (agency name) participated directly in the Proposer's proposal preparation.
- 12. All responses to the RFP must conform to instruction. Failure to include any required signatures, provide the required number of copies, to meet deadlines, answer all questions, follow the required format, or failure to comply with any other requirements of this RFP may be considered appropriate cause for rejection of the response.
- 13. The Proposer must accept (agency name)'s standard contract language and conditions. See Standard Contract and Conditions.
- 14. The contract will represent the entire agreement between the Proposer and (agency) *name*) and will supersede all prior negotiations, representations or agreements, alleged or made, between the parties. (Agency name) or the State shall assume no liability for payment of services under the terms of the contract until the successful Proposer is notified that the contract has been accepted and approved by (agency name) and by the Attorney General's Office. The contract may be amended only by means of a written instrument signed by (agency name), the Proposer, and the Attorney General's Office.
- 15. Rights Reserved to (*Agency*)

The (Agency) reserves the right to award in part, to reject any and all proposals in whole or in part for misrepresentation or if the Proposer is in default of any prior State contract, or if the proposal limits or modifies any of the terms and conditions and/or specifications of the RFP. (Agency) also reserves the right to waive technical defect, irregularities and omissions if, in its judgment, the best interest of (Agency) will be served.

(Agency) reserves the right to correct inaccurate awards resulting from its clerical errors. This may include, in extreme circumstances, revoking the awarding of a contract already made to a Proposer and subsequently awarding the contract to another Proposer. Such action on the part of (Agency) shall not constitute a breach of contract on the part of (Agency) since the contract with the initial Proposer is deemed to be void ab initio and of no effect as if no contract ever existed between (Agency) and the Proposer.

#### M. Standard Contract and Conditions



The sample document below is a slightly modified version of OPM's standard contract and conditions. It is provided for illustrative purposes only. An agency must use its own standard contract and conditions when executing a PSA. The standard contract and conditions typically must be approved by the AG's Office prior to use.

#### SECTION 1

This Agreement (hereinafter referred to as "Agreement") is entered into between the State of Connecticut (hereinafter "State") acting through the Office of Policy and Management (OPM) pursuant to Connecticut General Statutes Sections 4-8, 4-65a and 4-66, and, a corporation having its principal offices (hereinafter "Contractor"). The parties agree that the services specified below shall be provided by Contractor in strict compliance with the provisions of this Agreement.

## SECTION 2 CONTRACT PERIOD AND DEFINITIONS

This Agreement shall commence on and the duties of the Contractor as set forth in Section 4 of this Agreement shall be completed by the Contractor no later than (hereinafter "end date").

Whenever the following terms or phrases are used in this Agreement, they shall have the following meaning unless the context clearly requires otherwise:

State - Wherever the term 'State' is used in this Agreement, it shall include the Secretary of the Office of Policy and Management, or his authorized agents, employees or designees.

## SECTION 3 NOTICE OF CHANGE AND CANCELLATION

This Agreement may be canceled at will by either party upon ten (10) days written notice delivered by certified or registered mail. Unless otherwise expressly provided to the contrary, any other notice provided under this Agreement shall be in writing and may be delivered personally or by certified or registered mail. All notices shall be effective if delivered personally, or by certified or registered mail, to the following addresses:

State: State of Connecticut

> Office of Policy and Management 450 Capitol Ave. - MS#55SEC Hartford, CT 06106-1308 Attention: MaryAnn Palmarozza

Contract	or:	 	 
_		 	 
_		 	 
_		 	 

Any request for written notice under this Agreement shall be made in the manner set forth in this section. The parties may change their respective addresses for notices under this paragraph upon prior written notification to the other.

## SECTION 4 SPECIFICATION OF SERVICES

(Insert Outline of Work)

## **SECTION 5** COST AND SCHEDULE OF PAYMENTS

The STATE shall pay the CONTRACTOR a total sum not to exceed for services performed under this AGREEMENT.

The Contractor shall be compensated for fees based upon work performed, documented, and accepted by the State.

The Contractor shall submit invoices on a periodic basis, not less often than monthly. Invoices shall, at a minimum, include the Contractor name, the Contract Number, the Contractor's Federal Employer Identification Number, the billing period, and an itemization of expenses by line item.

Invoices for deliverables shall include an identification of the deliverable; if printed material, a copy of the deliverable; and the date that the deliverable was provided to the State.

Invoices for services billed by the hour shall include the name and title of the individual providing the services, the dates worked, the number of hours worked each day with a brief synopsis of the work performed, the rate being charged for the individual, and the total cost for that person's work during the billing period.

Invoices for expenses, if allowed, shall include a detailed account of expenses specifying the day when and purpose for which they were incurred as well as all receipts, invoices, bills and other available documentation as evidence of the actual cost of such expenses. Such expenses may include, but are not limited to: mileage @ \$.345 per mile; costs of travel

including airfare and hotels, and office expenses such as, phone calls, copying, postage and package delivery incurred in connection with the service pertaining to this AGREEMENT. All expenses will be reimbursed at cost.

## SECTION 6 OTHER CONDITIONS

### A. Entire Agreement

This Agreement embodies the entire agreement between the State and Contractor on the matters specifically addressed herein. The parties shall not be bound by or be liable for any statement, representation, promise, inducement, or understanding of any kind or nature not set forth herein. This Agreement shall supersede all prior written agreements between the parties and their predecessors. No changes, amendments, or modifications of any of the terms or conditions of the Agreement shall be valid unless reduced to writing, signed by both parties, and approved by the Attorney General or his Deputy. This Agreement shall inure to the benefit of each party's heirs, successors, and assigns.

### B. Changes in Service

When changes in the services are required or requested by the State, Contractor shall promptly estimate their monetary effect and so notify the State. No change shall be implemented by Contractor unless it is approved by the State in writing; and, unless otherwise agreed to in writing, the provisions of this Agreement shall apply to all changes in the services. If the State determines that any change materially affects the cost or time of performance of this Agreement as a whole, Contractor and the State will mutually agree in writing to an equitable adjustment.

#### C. Independent Contractor

Contractor represents that it is fully experienced and properly qualified to perform the services provided for herein, and that it is properly licensed, equipped, organized, and financed to perform such services. Contractor shall act as an independent Contractor in performing this Agreement, maintaining complete control over its employees and all of its subcontractors. Contractor shall furnish fully qualified personnel to perform the services under this Agreement. Contractor shall perform all services in accordance with its methods, subject to compliance with this Agreement and all applicable laws and regulations. It is acknowledged that services rendered by the Contractor to the State hereunder do not in any way conflict with other contractual commitments with or by the Contractor.

If applicable, Contractor shall deliver copies of any and all current license(s) and registration(s) relating to the services to be performed under this Agreement to the State, at the time of the execution of this Agreement, as evidence that such are in full force and effect.

#### D. Laws and Regulations

This Agreement shall be interpreted under and governed by the laws of the State of Connecticut.

Contractor, its employees and representatives shall at all times comply with all applicable laws, ordinances, statutes, rules, regulations, and orders of governmental authorities,

including those having jurisdiction over its registration and licensing to perform services under this Agreement.

### E. Labor and Personnel

At all times, Contractor shall utilize approved, qualified personnel and any State approved subcontractors necessary to perform the services under this Agreement. Contractor shall advise the State promptly, in writing, of any labor dispute or anticipated labor dispute or other labor related occurrence known to Contractor involving Contractor's employees or subcontractors which may reasonably be expected to affect Contractor's performance of services under this Agreement. The State may then, at its option, ask Contractor to arrange for a temporary employee(s) or subcontractor(s) satisfactory to the State to provide the services otherwise performable by Contractor hereunder. The Contractor will be responsible to the State for any economic detriment caused the State by such subcontract arrangement.

Contractor shall, if requested to do so by the State, reassign from the State's account any employee or authorized representatives whom the State, in its sole discretion, determines is incompetent, dishonest, or uncooperative. In requesting the reassignment of an employee under this paragraph, the State shall give ten (10) days notice to Contractor of the State's desire for such reassignment. Contractor will then have five (5) days to investigate the situation and attempt, if it so desires, to satisfy the State that the employee should not be reassigned; however, the State's decision in its sole discretion after such five (5) day period shall be final. Should the State still desire reassignment, then five days thereafter, or ten (10) days from the date of the notice of reassignment, the employee shall be reassigned from the State's account.

#### F. Conflicts, Errors, Omissions, and Discrepancies

In the event of any conflict between the provision of this Agreement and the provisions of Form CO-802A to which this Agreement is attached, the provisions of this Agreement shall control.

In case of conflicts, discrepancies, errors, or omissions among the various parts of this Agreement, any such matter shall be submitted immediately by Contractor to the State for clarification. The State shall issue such clarification within a reasonable period of time. Any services affected by such conflicts, discrepancies, errors, or omissions which are performed by Contractor prior to clarification by the State shall be at Contractor's risk.

### G. Indemnity

Contractor hereby indemnifies and shall defend and hold harmless the State, its officers, and its employees from and against any and all suits, actions, legal or administrative proceedings, claims, demands, damages, liabilities, monetary loss, interest, attorney's fees, costs and expenses of whatsoever kind or nature arising out of the performance of this Agreement, including those arising out of injury to or death of Contractor's employees or subcontractors, whether arising before, during, or after completion of the services hereunder and in any manner directly or indirectly caused, occasioned or contributed to in whole or in part, by reason of any act, omission, fault or negligence of Contractor or its employees, agents or subcontractors.

### H. Nondisclosure

Contractor shall not release any information concerning the services provided pursuant to the Agreement or any part thereof to any member of the public, press, business entity or any official body unless prior written consent is obtained from the State.

#### I. Quality Surveillance and Examination of Records

All services performed by Contractor shall be subject to the inspection and approval of the State at all times, and Contractor shall furnish all information concerning the services.

The State or its representatives shall have the right at reasonable hours to examine any books, records, and other documents of Contractor or its subcontractors pertaining to work performed under this Agreement and shall allow such representatives free access to any and all such books and records. The State will give the Contractor at least twenty-four (24) hours notice of such intended examination. At the State's request, the Contractor shall provide the State with hard copies of or magnetic disk or tape containing any data or information in the possession or control of the Contractor which pertains to the State's business under this Agreement. The Contractor shall incorporate this paragraph verbatim into any Agreement it enters into with any subcontractor providing services under this Agreement.

The Contractor shall retain and maintain accurate records and documents relating to performance of services under this Agreement for a minimum of three (3) years after the final payment by the State and shall make them available for inspection and audit by the State.

In the event that this Agreement constitutes a grant Agreement, and the Contractor is a public or private agency other than another state agency, the Contractor shall provide for an audit acceptable to the State, in accordance with the provisions of Conn. Gen. Stat. Sec. 7-396a.

#### J. Insurance

The Contractor, at its sole expense, agrees to secure and keep in full force and effect at all times during the term of this Agreement as defined in Section 2 above, a one million dollar (\$1,000,000) liability insurance policy or policies provided by an insurance company or companies licensed to do business in the State of Connecticut. Said policy or policies shall cover all of the Contractor's activities under this Agreement and shall state that it is primary insurance in regard to the State, its officers and employees. The State shall be named as an additional insured.

In addition, the Contractor shall at its sole expense maintain in effect at all times during the performance of its obligations hereunder the following additional insurance coverages with limits not less than those set forth below with insurers and under forms of policies approved by the State Insurance Commissioner to do business in Connecticut:

Coverage:	Minimum Amounts and Limits
1. Workers' Compensation	Connecticut Statutory Requirements
2. Employer's Liability	To the extent included under Workers' Compensation Insurance Policy

- 3. Adequate comprehensive Vehicle Liability Insurance covering all vehicles owned or leased by Contractor and in the course of work under this Agreement:
  - a. Bodily Injury Insurance meeting Connecticut statutory requirements;
  - b. Property Damage Insurance meeting Connecticut statutory requirements;

None of the requirements contained herein as to types, limits, and approval of insurance coverage to be maintained by Contractor are intended to and shall not in any way limit or qualify the liabilities and obligations assumed by Contractor under this Agreement.

Contractor shall deliver Certificates of Insurance relating to all of the above referenced coverages to the State at the time of the execution of this Agreement as evidence that policies providing such coverage and limits of insurance are in full force and effect, which Certificate shall provide that no less than thirty (30) days advance notice will be given in writing to the State prior to cancellation, termination or alteration of said policies of insurance.

#### K. Non-Waiver

None of the conditions of this Agreement shall be considered waived by the State or the Contractor unless given in writing. No such waiver shall be a waiver of any past or future default, breach, or modification of any of the conditions of this Agreement unless expressly stipulated in such waiver.

#### L. Promotion

Unless specifically authorized in writing by the Secretary of the Office of Policy and Management, on a case by case basis, Contractor shall have no right to use, and shall not use, the name of the State of Connecticut, its officials, agencies, or employees or the seal of the State of Connecticut or its agencies:

- (1) in any advertising, publicity, promotion; or
- (2) to express or to imply any endorsement of Contractor's products or services; or
- (3) to use the name of the State of Connecticut, its officials, agencies, or employees or the seal of the State of Connecticut or its agencies in any other manner (whether or not similar to uses prohibited by subparagraphs (1) and (2) above), except only to manufacture and deliver in accordance with this Agreement such items as are hereby contracted for by the State. In no event may the Contractor use the State Seal in any way without the express written consent of the Secretary of State.

## M. Confidentiality

All data provided to Contractor by the State or developed internally by Contractor with regard to the State will be treated as proprietary to the State and confidential unless the State agrees in writing to the contrary. Contractor agrees to forever hold in confidence all files, records, documents, or other information as designated, whether prepared by the State or others, which may come into Contractor's possession during the term of this Agreement, except where disclosure of such information by Contractor is required by other governmental authority to ensure compliance with laws, rules, or regulations, and such disclosure will be limited to that actually so required. Where such disclosure is required, Contractor will provide advance notice to the State of the need for the disclosure and will not disclose absent consent from the State.

## N. Subpoenas

In the event the Contractor's records are subpoenaed pursuant to Conn. Gen. Stat. Section 36a-43, the Contractor shall, within twenty-four (24) hours of service of the subpoena, notify the person designated for the State in Section 3 of this Agreement of such subpoena. Within thirty-six (36) hours of service, the Contractor shall send a written notice of the subpoena together with a copy of the same to the person designated for the State in Section 3 of this Agreement.

### O. Survival

The rights and obligations of the parties which by their nature survive termination or completion of the Agreement, including but not limited to those set forth herein in sections relating to Indemnity, Nondisclosure, Promotion, and Confidentiality of this Agreement, shall remain in full force and effect.

#### P. Americans with Disabilities Act

This clause applies to those Contractors which are or will become responsible for compliance with the terms of the Americans with Disabilities Act of 1990 during the term of the contract. Contractor represents that it is familiar with the terms of this Act and that it is in compliance with the law. Failure of the Contractor to satisfy this standard either now or during the term of the contract as it may be amended will render the contract voidable at the option of the State upon notice to the Contractor. Contractor warrants that it will hold the State harmless from any liability which may be imposed upon the State as a result of any failure of the Contractor to be in compliance with this Act.

#### Q. Non-Discrimination and Executive Orders

The non-discrimination clause on the reverse side of page 1 of Form CO 802-A, attached hereto, is superseded and the following is inserted in lieu thereof:

(a) For the purposes of this Section, "minority business enterprise" means any small Contractor or supplier of materials fifty-one percent or more of the capital stock, if any, or assets of which is owned by a person or persons: (1) who are active in the daily affairs of the enterprise, (2) who have the power to direct the management and policies of the enterprise, and (3) who are members of a minority, as such term is defined in subsection (a) of Conn. Gen. Stat. Sec. 32-9n; and "good faith" means that degree of diligence which a reasonable person would exercise in the performance of legal duties and obligations. "Good faith efforts" shall include, but not be limited to, those reasonable initial efforts necessary to comply with statutory or regulatory requirements and additional or substituted efforts when it is determined that such initial efforts will not be sufficient to comply with such requirements.

For purposes of this Section, "Commission" means the Commission on Human Rights and Opportunities.

For purposes of this Section, "Public works contract" means any Agreement between any individual, firm or corporation and the State or any political subdivision of the State other than a municipality for construction, rehabilitation, conversion, extension, demolition or repair of a public building, highway or other changes or improvements in real property, or which is financed in whole or in part by the State, including, but not limited to, matching expenditures, grants, loans, insurance or guarantees.

- (b) (1) The Contractor agrees and warrants that in the performance of the contract such Contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of race, color, religious creed, age, marital status, national origin, ancestry, sex, mental retardation or physical disability, including, but not limited to, blindness, unless it is shown by such Contractor that such disability prevents performance of the work involved, in any manner prohibited by the laws of the United States or of the State of Connecticut. The Contractor further agrees to take affirmative action to insure that applicants with job-related qualifications are employed and that employees are treated when employed without regard to their race, color, religious creed, age, marital status, national origin, ancestry, sex, mental retardation, or physical disability, including, but not limited to, blindness, unless it is shown by the Contractor that such disability prevents performance of the work involved; (2) the Contractor agrees, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, to state that it is an "affirmative action-equal opportunity employer" in accordance with regulations adopted by the Commission; (3) the Contractor agrees to provide each labor union or representative of workers with which the Contractor has a collective bargaining Agreement or other contract or understanding and each vendor with which the Contractor has a contract or understanding, a notice to be provided by the Commission, advising the labor union or worker's representative of the Contractor's commitments under this section and to post copies of the notice in conspicuous places available to employees and applicants for employment; (4) the Contractor agrees to comply with each provision of this Section and Conn. Gen. Stat. Secs. 46a-68e and 46a-68f and with each regulation or relevant order issued by said Commission pursuant to Conn. Gen. Stat. Sec. 46a-56, as amended by Section 5 of Public Act 89-253, Conn. Gen. Stat. Sec. 46a-68e and Conn. Gen. Stat. Sec. 46a-68f; (5) the Contractor agrees to provide the Commission on Human Rights and Opportunities with such information requested by the Commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the Contractor as relate to the provisions of this Section and Conn. Gen. Stat. Sec. 46a-56. If the contract is a public works contract, the Contractor agrees and warrants that he will make good faith efforts to employ minority business enterprises as subcontractors and suppliers of materials on such public works projects.
- (c) Determination of the Contractor's good faith efforts shall include, but shall not be limited to, the following factors: The Contractor's employment and subcontracting policies, patterns and practices; affirmative advertising, recruitment and training; technical assistance activities and such other reasonable activities or efforts as the Commission may prescribe that are designed to ensure the participation of minority business enterprises in public works projects.
- (d) The Contractor shall develop and maintain adequate documentation, in a manner prescribed by the Commission, of its good faith efforts.
- (e) The Contractor shall include the provisions of subsection (b) of this Section in every subcontract or purchase order entered into in order to fulfill any obligation of a contract with the State and such provisions shall be binding on a subcontractor, vendor or manufacturer unless exempted by regulations or orders of the Commission. The Contractor shall take such action with respect to any such subcontract or purchase order as the Commission may direct as a means of enforcing such provisions including sanctions for noncompliance in accordance with Conn. Gen. Stat. Sec. 46a-56, as amended by Section 5 of Public Act 89-253; provided if such Contractor becomes involved in, or is threatened with, litigation with a subcontractor

or vendor as a result of such direction by the Commission, the Contractor may request the State of Connecticut to enter into any such litigation or negotiation prior thereto to protect the interests of the State and the State may so enter.

- (f) The Contractor agrees to comply with the regulations referred to in this Section as they exist on the date of this Agreement and as they may be adopted or amended from time to time during the term of this Agreement and any amendments thereto.
- (g) The Contractor agrees to the following provisions: The Contractor agrees and warrants that in the performance of the Agreement such Contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of sexual orientation, in any manner prohibited by the laws of the United States or the State of Connecticut, and the employees are treated when employed without regard to their sexual orientation; the Contractor agrees to provide each labor union or representative of workers with which such Contractor has a collective bargaining Agreement or other contract or understanding and each vendor with which such Contractor has a contract or understanding, a notice to be provided by the Commission on Human Rights and Opportunities advising the labor union or workers' representative of the Contractor's commitments under this section, and to post copies of the notice in conspicuous places available to employees and applicants for employment; the Contractor agrees to comply with each provision of this section and with each regulation or relevant order issued by said Commission pursuant to Conn. Gen. Stat. Sec. 46a-56; the Contractor agrees to provide the Commission on Human Rights and Opportunities with such information requested by the Commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the Contractor which relate to the provisions of this Section and Conn. Gen. Stat. Sec. 46a-56.
- (h) The Contractor shall include the provisions of the foregoing paragraph in every subcontract or purchase order entered into in order to fulfill any obligation of a contract with the State and such provisions shall be binding on a subcontractor, vendor or manufacturer unless exempted by regulations or orders of the Commission. The Contractor shall take such action with respect to any such subcontract or purchase order as the Commission may direct as a means of enforcing such provisions including sanctions for noncompliance in accordance with Conn. Gen. Stat. Sec. 46a-56; provided, if such Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Commission, the Contractor may request the State of Connecticut to enter into any such litigation or negotiation prior thereto to protect the interests of the State and State may so enter.

This Agreement is subject to the provisions of Executive Order No. Three of Governor Thomas J. Meskill promulgated June 16, 1971, and, as such, this Agreement may be canceled, terminated or suspended by the State Labor Commissioner for violation of or noncompliance with said Executive Order No. Three, or any State or federal law concerning nondiscrimination, notwithstanding that the Labor Commissioner is not a party to this Agreement. The parties to this Agreement, as part of the consideration hereof, agree that said Executive Order No. Three is incorporated herein by reference and made a part hereof. The parties agree to abide by said Executive Order and agree that the State Labor Commissioner shall have continuing jurisdiction in respect to contract performance in regard to nondiscrimination until the Agreement is completed or terminated prior to completion.

The Contractor agrees, as part consideration hereof, that this Agreement is subject to the Guidelines and Rules issued by the State Labor Commissioner to implement Executive Order No. Three, and that it will not discriminate in its employment practices or policies, will file all reports as required, and will fully cooperate with the State of Connecticut and the State Labor Commissioner.

This Agreement is subject to the provisions of Executive Order No. Seventeen of Governor Thomas J. Meskill promulgated February 15, 1973, and, as such, this Agreement may be canceled, terminated or suspended by the contracting agency or the State Labor Commissioner for violation of or noncompliance with said Executive Order No. Seventeen, notwithstanding that the Labor Commissioner may not be party to this Agreement. The parties to this Agreement, as part of the consideration hereof, agree that Executive Order No. Seventeen is incorporated herein by reference and made a part hereof. The parties agree to abide by said Executive Order and agree that the contracting agency and the State Labor Commissioner shall have joint and several continuing jurisdiction in respect to contract performance in regard to listing all employment openings with the Connecticut State Employment Service.

## R. Violence in the Workplace Prevention

This contract is subject to the provisions of Executive Order No. 16 of Governor John G. Rowland promulgated August 4, 1999 and, as such, the contract may be canceled, terminated or suspended by the state for violation of or noncompliance with said executive Order No. 16. The parties to this contract, as part of the consideration hereof, agree that said Executive Order No. 16 is incorporated herein by reference and made a part hereof. The parties agree to abide by such Executive Order.

# S. Sovereign Immunity

Notwithstanding any provisions to the contrary contained in this Agreement, it is agreed and understood that the State of Connecticut shall not be construed to have waived any rights or defenses of sovereign immunity which it may have with respect to all matters arising out of this Agreement.

#### T. Assignment

This Agreement shall not be assigned by either party without the express prior written consent of the other.

# U. Severability

If any part or parts of this Agreement shall be held to be void or unenforceable, such part or parts shall be treated as severable, leaving valid the remainder of this Agreement notwithstanding the part or parts found to be void or unenforceable.

#### V. Headings

The titles of the several sections, subsections, and paragraphs set forth in this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of the provisions of this Agreement.

## W. Third Parties

The State shall not be obligated or liable hereunder to any party other than the Contractor.

## X. Non Waiver

In no event shall the making by the State of any payment to the Contractor constitute or be construed as a waiver by the State of any breach of covenant, or any default which may then exist, on the part of the Contractor and the making of any such payment by the State while any such breach or default exists shall in no way impair or prejudice any right or remedy available to the State in respect to such breach or default.

## Y. Contractor Certification

The Contractor certifies that the Contractor has not been convicted of bribery or attempting to bribe an officer or employee of the State, nor has the Contractor made an admission of guilt of such conduct which is a matter of record.

## N. Required Format for Proposals



Below is a sample format for proposals. It is provided for illustrative purposes only and may be modified to meet an agency's requirements. A modified format must include all components required by State statutes, OPM's standards, and the State's contract compliance requirements.

All proposals must follow the required format (below) and address all requirements listed in the prescribed order, using the prescribed numbering system. Failure to follow the prescribed format may result in disqualification.

#### 1. Contact Information

Provide the information requested below:

- A. Name of Proposer
- B. Business Location
- C. Mailing Address
- D. Telephone Number
- E. Federal Employer ID Number / Social Security Number

## 2. Proposer's Representatives

The Proposer must designate an authorized representative and one alternate who may speak and act on behalf of the Proposer in all dealings with the agency, if necessary. Provide the following information for each individual.

- A. Names
- B. Telephone Numbers
- C. Normal Hours of Work

## 3. Individual or Organizational Profile

## A. Qualifications

Describe how your experience, education and training, or special knowledge, skills or abilities meet the minimum required qualifications of this RFP.

## B. Organization Chart

If the Proposer is a firm or corporation, provide a diagram showing the hierarchical interrelationships of functions and positions within the organization.

## C. Legal Status

If the Proposer is a firm or corporation, describe the organization's legal status (e.g., sole proprietorship, partnership, limited partnership, corporation, subchapter S corporation). Report where (in which states) the organization is registered to do business and whether it is nonprofit or profit making.

#### D. Financial Condition

If the Proposer is a firm or corporation, include the two most recent annual financial statements prepared by an independent Certified Public Accountant, and reviewed or audited in accordance with Generally Accepted Accounting Principles (USA). If a Proposer has been in business for less than two years, such Proposer must include any financial statements prepared by a Certified Public Accountant, and reviewed or audited in accordance with Generally Accepted Accounting Principles (USA) for the entire existence of such firm or corporation.

## E. References

Include three letters of reference from recent clients. Provide the following information for each reference: name, title, company address, and phone number.

#### 4. Outline of Work

#### A. Work Plan

Provide a detailed, task-oriented breakdown for each activity in the Outline of Work. Proposers wishing to add activities to those specified in the Outline of Work must show the additions as separately numbered tasks.

## B. Methodologies

Describe how each activity (task) will be accomplished, providing a detailed explanation of the procedures or processes that will be used to attain the expected outcomes.

#### C. Deliverables

List and describe the form and content of each deliverable (outcome).

Include a description of the proposed method of working with the agency, the resources or services requested of the agency (if any), and the proposed method and timing of receiving agency approval of deliverables.

#### D. Schedule

Include a proposed work schedule, by activity, indicating when each activity will be accomplished. Identify any significant milestones or deadlines. Include due dates for all deliverables

#### 5. Personnel Resources

## A. Staffing Plan

Identify the personnel resources that will be assigned to each activity delineated in the work plan (above). State the proportion of time that personnel will allocate to each task of the project.

## B. Key Personnel

Identify the key personnel that will be assigned to this project. Attach resumes reflecting their qualifications, including related work experience. [Note: The Department must be notified in writing and in advance regarding the departure of any key personnel from the project.]

## C. Contract Compliance Requirements

Complete and attach the following forms required by the State of Connecticut's contract compliance requirements: (1) Acknowledgement of Contract Compliance Notification to Bidders; and (2) Workforce Analysis Affirmative Action Report.

Provide evidence of the Proposer's ability to meet the contract compliance requirements for one or more of the following factors: (1) success in implementing an affirmative action plan; (2) success in developing an apprenticeship program complying with §§ 46a-68-1 to 46a-68-17, inclusive, of the Regulations of Connecticut State Agencies; (3) promise to develop and implement a successful affirmative action plan; (4) submission of EEO-1 data indicating that the composition of the Proposer's workforce is at or near parity in the relevant labor market area; or (5) promise to set aside a portion of the contract for legitimate minority business enterprises.

## 6. Proposed Cost

Include a cost proposal using the required format (below). Proposers must submit an allinclusive fixed monthly cost to provide "billing and receivables services" for (insert description). The proposed cost must be based on an estimated 2,000 invoices per month.

The cost proposal must be prepared on one sheet of 8"x11" white paper. The Proposer's contact information must be printed at the top of the proposal. The original cost proposal and six duplicate copies must be placed in an 8"x11" envelope and sealed. The Proposer's contact information must be printed on the envelope.

Deliverable	Fixed Cost	
2,000 invoices per month	\$ xx,xxx.xx	TOTAL per month

#### 7. Conflict of Interest

Include a disclosure statement concerning any current business relationships (within the last 3 years) that may pose a conflict of interest, as defined by C.G.S. § 1-85.

## 8. Affidavit Concerning Gifts and Campaign Contributions

Include a signed affidavit attesting to whether or not any gifts were given to any public official or State employee during the two-year period preceding the submission of the proposal. If any gifts were given, provide the name of the recipient, a description of the gift, and the value and date of the gift. Also disclose in the affidavit all contributions make to campaigns of candidates for state-wide public office or the General Assembly. If any contributions were given, provide the name of the recipient, a description of the contribution, and the amount/value and date of the contribution.

## 9. Affirmations Concerning Contract and Conditions

Include a statement that the Proposer has read and accepts the RFP's conditions and the agency's standard contract and conditions in their entirety and without amendment.

#### 10. Surety Bond

Include a statement that the Proposer is willing and able to furnish a performance bond in the amount of \$250,000 upon award of the contract.

#### O. Common Cost Formats



The reason for a required cost format is to ensure that all Proposers will present their cost information in a way that is easily understood and allows for direct comparison. The format required will depend on the type of service involved. If an agency wishes a Contractor to provide a single service, then a single format is appropriate. If an agency wishes a Contractor to provide multiple services, then multiple formats may be required. An agency

may select one or more of the formats below or devise its own format to meet its requirements.

• Variable Cost. If the RFP is seeking a direct service to clients, but the total number of clients to be served is unknown, then cost could be requested on a per client basis. [Proposals are cost out at \$x.xx per client.] Where an economy of scale may come into play, the agency could request cost information for different "ranges" of clients. [Proposals are cost out at \$x.xx per client for 50-100 clients, \$x.xx per client for 101-150 clients, and \$x.xx per client for 151-200 clients.] If this later option is used, total cost could be defined as the average of the three ranges.

## Examples:

Deliverable	Variable Cost	
(description)	\$ x.xx \$ xx,xxx.xx	per client TOTAL
	- or -	
Deliverable	Variable Cost	
(description)	\$ xx.xx \$ xx.xx \$ x.xx \$ x.xx	per client based on 50-100 clients per client based on 101-150 clients per client based on 151-200 clients AVERAGE per client cost

• Estimated Cost. Alternatively, if the RFP is seeking a direct service to clients, but the total number of clients to be served is unknown, the agency may estimate the number of clients for the purposes of the cost proposal. All Proposers would use the estimated number of clients to cost out their proposals. [Proposals are cost out at \$x.xx for 100 clients.] The RFP must provide clear notice that the actual client count will vary.

#### Example:

Deliverable	Estimated Cos	st
(description)	\$ xx.xx	per client based on 100 clients (est.)
	\$ x,xxx.xx	TOTAL

• Fixed Cost. If the RFP seeks a well-defined service or product, such as a study or consulting report, the agency would most likely ask for a fixed cost. This cost is fixed in total for a given period of time and for given service or production level. The cost format could break out the expenditures that constitute the cost. Typical expenditures may include, but not be limited to, employee salaries and wages, fringe benefits, rent, maintenance services, equipment rental or purchase, insurance, utilities, office supplies, marketing and advertising, travel, entertainment, meals, fees, computer services, printing,

postage, and shipping. The break down of expenditures may prove useful later during contract negotiations. For example, a Proposer submits a cost of \$60,000, including \$30,000 for personnel and \$30,000 for travel. As the travel expenses appear excessive, it may be possible to reduce the cost of the final contract.

#### Example:

Deliverable	Fixed Cost	
(description)	\$ xx,xxx.xx	TOTAL

Hourly (or Daily) Cost. In rare situations, the agency may seek a Contractor to provide a service where it may not be possible to quantify the effort required or where the deliverables may be intangible. Payment would be based on an hourly or daily rate rather than a total cost. This situation is risky for an agency and should be avoided. When unavoidable, the cost proposal should be structured on a "not to exceed" basis. The RFP would set an upper limit for the contract and the Proposers should be instructed to submit a proposal that states the cost on an hourly or daily basis. Example:

Deliverable	Hourly (or Daily) Cost		
(description)	\$ xx.xx per hour (or per day)		
	\$ xx,xxx.xx TOTAL based on 120 hours		

Reimbursed Cost. The Contractor is paid for the actual expenses incurred in providing the service. This situation is also risky for an agency and should be avoided. If used, the cost proposal should be structured on a "not to exceed" basis. The agency may also wish to specify the allowable expenses. As with the Fixed Cost format (above), allowable expenses may include, but not be limited to, employee salaries and wages, fringe benefits, rent, maintenance services, equipment rental or purchase, insurance, utilities, office supplies, marketing and advertising, travel, entertainment, meals, fees, computer services, printing, postage, and shipping.

## Example:

Deliverable	Reimbursed Cost
(description)	\$ xx,xxx.xx Salaries & Benefits
	\$ x,xxx.xx Supplies
	\$ x,xxx.xx Computer Services
	\$ xxx.xx Travel
	\$ x,xxx.xx (Etc.)
	\$ xx,xxx.xx TOTAL

• Mixed Costs. In some situations, an agency may seek several services in a single RFP. Imagine an RFP seeking a Contractor to conduct a needs assessment of a certain client population, as well as the design and implementation of a new service delivery system for these clients. The cost proposal might include a fixed cost for the needs assessment and system design, and a variable cost for the service delivery. The two costs would be separately reviewed and rated.

## Example:

Deliverable	Fixed Cost
(description)	\$ xx,xxx.xx TOTAL
	- plus -
Deliverable	Estimated Cost
(description)	\$ xx.xx per client based on 100 clients (etc.) \$ x,xxx.xx TOTAL

## P. Rating Sheets



A rating sheet is a standardized form used by the Screening Committee during the review process to rate proposals. The review criteria listed on the rating sheet must be identical to those indicated in the RFP. The two documents must be totally aligned and mirror one another.

Below are sample rating sheets. They are provided for illustrative purposes only and may be modified to meet an agency's requirements. Modified rating sheets must include all components required by State statutes, OPM's standards, and the State's contract compliance requirements.

Here are four different rating sheets: (1) individual rating sheet, (2) average rating sheet, (3) weighted rating sheet, and (4) final rating sheet. Each sheet is used to document the decisions that are individually and collectively made by members of the Screening Committee during the review process.

The first rating sheet is used by the individual members of the Screening Committee. The review criteria may be rated using any method devised for this purpose. One commonly used method (see below) requires a Committee member to determine whether a given criterion is "Excellent," "Above Average," "Average," "Below Average," or "Unsatisfactory." Each criterion is then given a corresponding number of 5 through 1.

5= Excellent 4=Above Average 3=Average 2=Below Average 1=Unsatisfactory

## INDIVIDUAL RATING SHEET

Below is a sample document for an individual rating sheet. An individual rating sheet is used by an individual member of the Selection Committee to review and rate proposals. Each Committee member completes an individual rating sheet for each proposal under review.

	IDUAL RATING SHEET of Proposer: <i>John Doe</i> Committee Member		RFP No: 2004 - 9 <u>er</u>
• M	INIMUM SUBMISSION REQUIREMENTS	Yes	No
<ol> <li>Mo</li> <li>Fo</li> <li>Is</li> <li>Inc</li> </ol>	as submitted before the deadline? eets the packaging and labeling requirements? llows the required format? complete? cludes the affidavit required by PA 04-245? cludes the affidavit required by E.O. No. 1?	<u> </u>	
• R.A	ATINGS		
	is proposal using the following scale: ellent 4=Above Average 3=Average 2=Below	Average 1=U	Insatisfactory
• RE	EVIEW CRITERIA	Weights	Rating
Individ	ual or Organizational Capacity		
a.	Qualifications	10	
b.	Financial Condition	10	
c.	References	5	
Outline	e of Work		
d.	Work Plan	10	
e.	Methodology	10	
f.	Deliverables	10	
g.	Schedule	5	
Person	nel Resources		
h.	Staffing Plan	10	
i.	Key Personnel	10	
j.	Contract Compliance Requirements	5	
Cost			
k.	Formula Rating*	15	
1.	Confidence Rating* (optional) *Calculated on Final Rating Sheet.		

# AVERAGE RATING SHEET

Below is a sample average rating sheet. An average rating sheet is used by the Screening Committee to combine and average the individual ratings of its members. One sheet is used for each Proposer.

	RAGE RATING SHE e of Proposer: <u>John Do</u>						-	RFP No	: 2004 -	9
Ent the	LCULATE AVERAG er the individual rating ratings together to cal average rating.	gs of eac								
Cor	mmittee Member:	Jane		David		Alice		Subtotal		Average
Indiv Capa	idual or Organizationa acity	1								
a.	Qualifications		+		+		=		÷3 =	
b.	Financial Condition		+		+		=		÷3 =	
c.	References		+		+		=		÷3 =	
Outli	ne of Work									
d.	Work Plan		+		+		=		÷3 =	
e.	Methodology		+		+		=		÷3 =	
f.	Deliverables		+		+		=		÷3 =	
g.	Schedule		+		+		=		÷ 3 =	
Perso	nnel Resources									
h.	Staffing Plan		+		+		=		÷ 3 =	
i.	Key Personnel		+		+		=		÷3 =	
j.	C.C. Requirements		+		+		=		÷3 =	
Cost										
k.	Formula Rating*									
1.	Confidence Rating* *Calculated on Final									

#### WEIGHTED RATING SHEET

Below is a sample weighted rating sheet. A weighted rating sheet is used by the Screening Committee to calculate the weight of each proposal. The average rating of each criterion is multiplied by its assigned weight. The results are added together to determine the weighted rating of the proposal (excluding cost). One sheet is used for each Proposer.

	GHTED RATING SHEET e of Proposer: <u>John Doe</u>			RFP 1	No: 2004	- 9
III. A	PPLY WEIGHTS					
wei	er the average ratings for each crite ight and enter the result under Subto his proposal.					
Indiv	idual or Organizational Capacity	Average		Weight		Subtotal
a.	Qualifications		X	10	=	
b.	Financial Condition		X	10	=	
c.	References		X	5	=	
Outli	ne of Work					
d.	Work Plan		X	10	=	
e.	Methodology		X	10	=	
f.	Deliverables		X	10	=	
g.	Schedule		X	5	=	
Perso	onnel Resources					
h.	Staffing Plan		X	10	=	
i.	Key Personnel		X	10	=	
j.	C.C. Requirements		X	5	=	
Cost						
k.	Formula Rating*			15		
1.	Confidence Rating* (optional) *Calculated on Final Rating Sheet					
	TOTAL			100		

# FINAL RATING SHEET

Below is a sample final rating sheet. It is used by the Screening Committee to determine the final rating of each proposal (including cost). One sheet is used for each Proposer.

	AL RATING SHEET ne of Proposer: <u>John Doe</u>		RFP No: 2004 - 9
Dire	ctions:		
Enter ratin		rmula Rating. Also ent	rescribed formula to the weighted er this result under the Final Rating. osal.)
Appl Rativ for th	ng. If used, determine the avera	ige confidence rating of ly the Formula Rating (	nd enter the result in the Formula f the Screening Committee members by the Average Confidence Rating
Add the re		ting. The Final Combi	Rating for the cost proposal. Enter ned Rating is used to determine the
Mair	ı Proposal		FINAL RATING
a.	Weighted Rating		
b.	Formula Rating		
c.	Final Rating		
_	Proposal		
Cost			
Cost d.	Formula Rating		
	Formula Rating Average Confidence Rating	(optional)	
d.	•	(optional)	

#### Q. Evaluation Plan



Sample Document

Below is a sample evaluation plan. It is provided for illustrative purposes only. An agency may modify the sample plan to meet the requirements of its RFP. At a minimum an agency's evaluation plan must meet the requirements of State statutes and OPM's standards and procedures. The sample plan here presents a two-part process, whereby the main proposal and cost proposal are reviewed separately.

#### GENERAL PRINCIPLES AND PROCEDURES

All proposals submitted to the (Agency Name) in response to RFP No. (insert no.) must be reviewed by the Screening Committee in accordance with this evaluation plan. Any amendment to this plan requires a three-quarters (3/4) majority vote of the Committee and the approval of the Agency Head (or designee). The Process Advisor must observe the review process to ensure that this evaluation plan is properly implemented.

The criteria established in the RFP must be used to review proposals. Only the Agency Head (or designee) and RFP Team members shall be privy to the weights assigned to the review criteria. The Committee may use Technical Advisors if members need assistance, in the form of special knowledge or expertise, in understanding aspects of the proposals. All members have equal roles in terms of decision-making, rating proposals, and voting. Information must be communicated simultaneously to all members. Unless otherwise agreed, the Committee must adopt a work schedule based on times and locations mutually agreeable to all members. The routine business of the Committee must be decided by a simple majority vote, unless specified otherwise in this plan.

#### REVIEW PROCESS

## Receiving Proposals

- 1. All proposals received on or before the deadline must be placed, unopened, in a secure location by the Official Agency Contact. Proposals received after the due date and time must be returned unopened or destroyed. If to be destroyed, the agency must contact the Proposer and provide an opportunity to retrieve the proposal within a specified period of time.
- 2. After the due date and time, proposals must be opened by the Chair (or designee) in conjunction with one other Committee member. The name of each Proposer who submitted a proposal before the deadline (date and time) must be recorded. Using a checklist approved by the Committee, the Chair (or designee) and Committee member must conduct a preliminary review of each proposal to verify that the proposal meets the minimum submission requirements, as specified in the RFP. The Chair (or designee) must advise all members about any proposal that does not meet the minimum submission requirements. The Official Agency Contact may be instructed by the Chair to contact any Proposer who submitted a deficient proposal and allow the Proposer one (1) business day to correct the deficiency. Any such correction must be in writing, signed by the Proposer, packaged and labeled as specified in the RFP, and submitted to the Official Agency Contact within the time allowed. Failure to submit the necessary correction within the one (1) business day allowed may disqualify a proposal from further review.

A unanimous vote of the Committee shall be required to eliminate a proposal based on failure to meet the minimum submission requirements.

3. In the event that more than twenty proposals are submitted in response to the RFP, the Committee, by an affirmative vote of three-quarters (3/4) of the members, may trigger an elimination round. If triggered, the Committee shall receive, review, and rate the qualifications of each Proposer. No other information contained in the proposal shall be received, reviewed, or rated during the elimination round. After the ratings are complete, only those proposals with the top ranking qualifications shall receive full review by the Committee.

## Reading the Main Proposals

- 4. The Chair must provide each member with the following: (1) a copy of the RFP document containing the review criteria, (2) a copy of every proposal submitted, excluding the cost proposal, and (3) a rating sheet for each proposal. The amount of time necessary to read the proposals shall be determined by a vote of the Committee. All members must read the proposals within the agreed time.
- 5. During the reading period, a member may conclude that a proposal does not meet the minimum submission requirements. The member may bring the alleged deficiency to the full Committee for review. Should the proposal be found deficient, the Chair may instruct the Official Agency Contact to notify the Proposer who submitted the deficient proposal and allow the Proposer one (1) business day to correct the deficiency. Any such correction must be in writing, signed by the Proposer, packaged and labeled as specified in the RFP, and submitted to the Official Agency Contact within the time allowed. Failure to submit the necessary correction within the one (1) business day allowed may disqualify a proposal from further review. Upon receipt of any such correction, the Committee shall determine by a simple majority vote whether the deficiency has been corrected. A unanimous vote of the Committee shall be required to eliminate a proposal from further review based on a failure to meet the minimum submission requirements.
- 6. If a member has a question about any proposal, the member must put the question in writing and give it to the Chair. The Chair, in consultation with Committee members, shall determine if answering the question requires the assistance of one or more Technical Advisors. The Committee shall further decide if it is necessary to photocopy proposals or parts of proposals for use by a Technical Advisor in answering any question. Only the Chair is authorized to photocopy proposals or parts of proposals or have such photocopies made. When appropriate, the Chair must give the Technical Advisor a copy of the question and the Technical Advisor must prepare an answer to the question. The answer may be presented orally or in writing, depending on the preference of the Committee. In either case, all questions and all answers must be made known to all members. Technical Advisors must not rate any proposal and must limit their comments and participation to answering questions by the Committee through the Chair. Once the Advisors have completed their work, any photocopies of proposals or parts of proposals must be returned to the Chair.
- 7. The members must submit any clarifying questions they may have about specific proposals to the Chair. The purpose of such clarifying questions is to allow Proposers to

further explain aspects of their proposals causing confusion or misunderstanding. The Chair (or designee) must compile the questions into sets. The Chair shall instruct the Official Agency Contact to send the questions to the specified Proposer (via US mail, facsimile, or email) and request a response in writing within three (3) business days. Proposers must not be permitted to make any changes to their proposals as a result of this process. Written responses must be distributed to all members upon receipt.

8. The Chair must appoint a Committee member or members to conduct reference checks of all Proposers. The member(s) must use the standardized *reference check form* for this purpose. Upon completion of the reference checks, the member(s) must report the results to the full Committee. Each member shall be given a copy of the completed reference check form for each Proposer.

### Individual Rating of Main Proposal

9. Without consulting the other members, each member must review and give an individual rating for each proposal according to the criteria established in the RFP, using a standardized rating sheet created for this purpose.

# Holding Meetings with Proposers

- 10. Members may decide to hold meetings (e.g., demonstrations, interviews, presentations, site visits) with Proposers by a simple majority vote of the full Committee. If any such meeting is held, an invitation to attend such a meeting must be extended to any Proposer whose proposal is under consideration. The meeting must be conducted in accordance with procedures determined by the Committee in advance of the meeting. Questions may be given to Proposers in writing in advance of the meeting.
- 11. After holding any such meetings, Committee members may review their individual ratings of the proposals and may make any changes they deem necessary.

#### Final Rating of Main Proposal

- 12. The Chair must convene a meeting of the full Committee where members must share their individual ratings of each proposal. The Chair (or designee) or Process Advisor must record the individual ratings given by each member for each proposal on a final rating sheet or spreadsheet created for this purpose. Deviations of two (2) or more points on any criterion must be discussed. A member may, but is not required to, change any individual rating as a result of the Committee's discussions.
- 13. When the members are satisfied with their ratings, no further changes must be permitted on the rating sheet. The individual ratings for each criterion must be totaled and averaged (to two decimal places). The average rating for each criterion must be multiplied by its assigned weight. The result is the weighted rating for the criterion. The weighted ratings all criteria must be added together. The prescribed formula (below) must be applied to the sum. The result shall constitute the final rating for the main proposal.

NOTE: All proposals must have a weighted rating to complete this step in the process.

### Formula

• Divide the weighted rating of this main proposal by the weighted rating of the highest rated main proposal.

- Then multiply by the total available points for the main proposal.
- The result is the final rating of this main proposal.

## Rating the Cost Proposal

- 14. After the main proposals are rated, the cost proposals shall be opened by the Chair (or designee) in conjunction with one other Committee member. The Chair (or designee) and Committee member must conduct a preliminary review of each component to verify that the component uses the required cost format, as specified in the RFP. The Chair (or designee) must advise all members about any proposal that does not use the required cost format. The Official Agency Contact may be instructed by the Chair to contact any Proposer who submitted a deficient cost proposal and allow the Proposer one (1) business day to correct the deficiency. Any such correction must be in writing, signed by the Proposer, packaged and labeled as specified in the RFP, and submitted to the Official Agency Contact within the time allowed. Failure to submit the necessary correction within the one (1) business day allowed may disqualify a proposal from further review. Upon receipt of any such correction, the Committee shall determine by a simple majority vote whether the deficiency has been corrected. A unanimous vote of the Committee shall be required to eliminate a proposal from further review based on a failure to meet the minimum submission requirements.
- 15. The Chair must provide each member of the Screening Committee with a copy of every cost proposal submitted. The amount of time necessary to review and rate the cost proposals shall be determined by a vote of the Committee. All members must review and rate the proposals within the agreed time.
- 16. During the reading period, a member may conclude that a proposal does not meet the minimum submission requirements. The member may bring the alleged deficiency to the full Committee for review. Should the proposal be found deficient, the Chair may instruct the Official Agency Contact to notify the Proposer who submitted the deficient proposal and allow the Proposer one (1) business day to correct the deficiency. Any such correction must be in writing, signed by the Proposer, packaged and labeled as specified in the RFP, and submitted to the Official Agency Contact within the time allowed. Failure to submit the necessary correction within the one (1) business day allowed may disqualify a proposal from further review. A unanimous vote of the Committee shall be required to eliminate a proposal based on failure to meet the minimum submission requirements.
- 17. If a member has a question about any cost proposal, the member must put the question in writing and give it to the Chair. The Chair, in consultation with Committee members, shall determine if answering the question requires the assistance of one or more Technical Advisors. The Committee shall further decide if it is necessary to photocopy proposals or parts of proposals for use by a Technical Advisor in answering any question. Only the Chair is authorized to photocopy proposals or parts of proposals or have such photocopies made. When appropriate, the Chair must give the Technical Advisor a copy

of the question and the Technical Advisor must prepare an answer to the question. The answer may be presented orally or in writing, depending on the preference of the Committee. In either case, all questions and all answers must be made known to all members. Technical Advisors must not rate any proposal and must limit their comments and participation to answering questions by the Committee through the Chair. Once the Advisors have completed their work, any photocopies of proposals or parts of proposals must be returned to the Chair.

- 18. The members must submit any clarifying questions they may have about specific proposals to the Chair. The purpose of such clarifying questions is to allow Proposers to further explain aspects of their proposals causing confusion or misunderstanding. The Chair (or designee) must compile the questions into sets. The Chair shall instruct the Official Agency Contact to send the questions to the specified Proposer (via US mail, facsimile, or email) and request a response in writing within three (3) business days. Proposers must not be permitted to make any changes to their proposals as a result of this process. Written responses must be distributed to all members upon receipt.
- 19. The cost proposal shall be rated using a two-step process:

First, a prescribed formula must be applied to each cost proposal. The proposal with the lowest cost automatically receives 100% of the points apportioned for the formula rating. All other proposals receive a lesser percentage. The formula is as follows:

Lowest Proposed Cost  $\div$  This Proposal's Cost = Formula Rating

Example: Proposal A has a total cost of \$200, the lowest. Proposal B has a total cost of \$400. Proposal A receives 100% of the assigned weight according to the formula (i.e.,  $200 \div 200 = 100\%$ ). Proposal B receives 50% of the assigned weight ( $200 \div 400 = 50\%$ ). Assuming the weight assigned to the formula rating of cost is 10, the final ratings for the cost proposal would be as follows: Proposal A = 10 (i.e.,  $10 \times 100\%$ ) and Proposal B = 5 (i.e.,  $10 \times 50\%$ ).

Second, each member of the Screening Committee shall give each cost proposal a "confidence rating." This rating reflects how credible, accurate, fair, and reasonable a Committee member deems the proposed cost to be. The Chair must convene a meeting of the full Committee where members must share their individual confidence ratings of each cost proposal. The Chair, Vice-Chair, or Process Advisor must record the individual ratings given by each member for each proposal on a final rating sheet or spreadsheet developed for this purpose. Deviations of two (2) or more points on any criterion must be discussed. A member may, but is not required to, change any individual rating as a result of the Committee's discussions. When the members are satisfied with their confidence ratings, no further changes must be permitted on the final rating sheet. The individual ratings must be totaled and averaged (to two decimal places). The average rating must then be multiplied by the formula rating. The result is the final rating for the cost proposal.

### Final Calculations

20. For each proposal, the final rating for the main proposal and the final rating for the cost proposal shall be added together. The sum shall be the final combined rating for the proposal. The Chair (or designee) must announce the names of the three top ranking Proposers. In the event that two (2) proposals receive the same final rating, a simple majority vote of the Committee must break the tie. In the event that more than two (2) proposals receive the same final rating, the Committee must determine by unanimous vote a fair and equitable method to break the tie.

## Reporting

21. The Chair (or designee) must prepare a report with recommendations for the Agency Head. The report must include, at a minimum, the names and ratings of the three top ranking Proposers. It may also include a summary of any noteworthy issues, including less than satisfactory reference checks, that arose during the review process. The report must be reviewed, adopted and signed by the full Committee. The Chair must then present the final report to the Agency Head.

#### Contractor Selection

22.	pon receipt of the report, the Agency Head may select the Contractor from the top three
	roposers. The Agency head has the prerogative to reject any or all the names submitted
	y the Screening Committee or void the entire RFP process.

Approved:			
	Signature of Agency Head	Date	e

# R. Legal Notice



Sample Document

This sample document is provided for illustrative purposes only. It is a modified reproduction of a legal notice issued by OPM.

## LEGAL NOTICE

#### Request For Proposal for Services

The State of Connecticut, Office of Policy and Management, is seeking proposals from individuals, firms or corporations to provide certain consulting services in the area of health care programs. The State wishes to retain a Contractor with considerable experience and the necessary expertise to assist the Office of Policy and Management in analyzing and evaluating issues that may arise in the health care area.

The request for proposal is available online at http://www.opm.state.ct.us/rfps.htm or from:

Leigh Anderson Office of Policy and Management Budget and Financial Management Division 450 Capitol Ave., MS#53BUD Hartford, Connecticut 06106-1308

Telephone (860) 418-6300 Fax (860) 418-6493

Deadline for submission is 4:00 P.M., Friday, September 26, 2003.

# S. How to Create a Direct Mailing List

Sources for developing a direct mailing list may include, but are not limited to, the following:

- Past Contractors individuals, firms or corporations that have a proven record of success in terms of providing the agency with similar services in the past.
- *Previous Proposers* individuals, firms or corporations that have responded to similar RFPs issued by the agency in the past.
- *Industry, Trade, and Professional Associations* groups representing individuals, firms or corporations that provide the services requested by the agency.
- DAS Directory a list, maintained by the State of Connecticut's Department of Administrative Services, of small Contractors and minority businesses in Connecticut. See <a href="http://www.das.state.ct.us/Purchase/SetAside/SAPVendor.asp">http://www.das.state.ct.us/Purchase/SetAside/SAPVendor.asp</a> for an online version.
- Agency Directories any lists of small Contractors or minority businesses maintained by the agency's Affirmative Action officer or business office.
- Other Government Agencies recommendations or leads from other Connecticut State agencies, other states, or the federal government.
- *Mailing List Services* a list purchased from a business that creates specialized mailing lists; price ranges from \$0.03 to \$0.15 per name.

## T. Questions and Answers



This sample document is a (modified) reproduction of the questions asked and answers given about an OPM RFP for consulting services in the area of health care programs.

- Q. Who is the current consultant and how long has the current consultant provided services to OPM?
- A. There is no consultant under contract at this time. The last contract was with Buck Consultants for the period of 7/1/1998 through 6/30/2003.
- Q. What types of actuarial services have been required of the current consultant and does the State expect to require those services during this contract period?
- A. The last consultant evaluated several proposed changes to benefit designs in both medical and pharmacy plans for the State Employees/Retirees Health insurance plan and the Teachers' Retirement Board plans. The consultant also projected the future solvency of the Teachers' Retirement Health Insurance Premium Account. It is not known what issues will arise during the next few years, so we cannot anticipate that these same services will be needed.

- Q. For each major project and activity how many hours were billed by the consultant? What was the average number of hours billed by the consultant annually?
- A. Each company is expected to develop its own estimates of costs based on the services required in the RFP.
- Q. Once the contract is awarded, who will serve as OPM's primary point-of-contact to work with the new consultant?
- A. The Budget Division is in transition due to the loss of several key analysts who participated in the State's Early Retirement Incentive Program. Initially the contact person is expected to (name of Official Agency Contact), but changes may be made.
- Q. Annually, how many meetings are scheduled for the Health Care Cost Containment with the new consultant?
- A. The Committee meets once a month, but it is not anticipated that the consultant will be required to attend unless unforeseen issues arise.
- Q. How often does the State issue RFP's for the Employee Health Care plans?
- A. Approximately every four years.
- Q. May we receive a copy of the previous winning proposal for this engagement?
- A. It will be mailed for your review.

#### U. Letter of Intent



🔁 Sample Document

A letter of intent (also called a *notice of intent*) is a letter or form that an individual, firm or corporation submits to the agency by a specified deadline, indicating that such individual, firm or corporation may submit a proposal in response to the RFP. The letter is non-binding, as it is only an expression of interest and does not obligate the sender to submit a proposal.

If the agency wishes to receive letters of intent from potential Proposers, it needs to decide whether to make the letter optional or required. If optional, the potential Proposers decide for themselves whether or not to send the agency such a letter. If the agency chooses this option, the RFP's instructions must clearly state that those who do not to submit a letter may not receive subsequent information, updates, or amendments pertaining to the RFP.

Requiring a letter of intent is the recommended decision, as the benefits outweigh the minimal administrative burden on the agency and potential Proposers. Letters of intent provide the agency with an early indication of the interest the RFP has generated. They also allow for the creation of a mailing list that may be used for subsequent communications to potential Proposers. The downside of requiring a letter is that an individual, firm, or corporation may learn of the RFP late in the process. Having failed to send the letter of intent by the specified deadline, this potentially worthy Proposer would not be allowed to submit a proposal.

Below is a sample Letter of Intent form that an agency may modify to meet the requirements of its RFP.

	LETTER OF INT	TENT
	State of Connec	
	Office of Policy and M	lanagement
	RFP for Smart Start Reg	istry Program
Return to:	Leigh Anderson Office of Policy and Manag 450 Capitol Avenue – MS# Hartford, CT 06106 860-418-6300 (Phone) 860-418-6494 (FAX)	
Return Deadline:	4:00 P.M., Friday, January	30, 2004
the above reference	d RFP. a non-binding expression of in	to submit a proposal in response to
Name:		
Mailing Address:		
Contact Person:		
Telephone:		
<u>FAX</u> :		
Email:		
Signature	Title	Date

# V. Resource Library

If the agency wishes potential Proposers to consider previous studies, surveys, reports, or other data or information that are not widely available, the agency may consider establishing a "resource library." The agency deposits the data or information in a conference room (or empty workspace) and sets up an appointment calendar. In the RFP's instructions, Proposers are notified about the library and instructed to call the Official Agency Contact to make an appointment. All Proposers must have equal access to the library.

If the materials are in electronic format, another option is to make them available online through the agency's website.

### W. Proposers' Conference

The agency also may answer questions from potential Proposers by holding a Proposers' conference – sometimes called a *Bidders' conference*. Such a conference is held not sooner than two weeks after publication of the legal notice, allowing Proposers time to obtain and read the RFP and to formulate questions. At the conference, attendees are allowed to ask oral questions, which the agency representative(s) may answer on the spot (when possible). Attendees should not be required to identify themselves when asking questions. Oral answers given at the conference are tentative and not binding on the agency. All questions asked at the conference must be compiled into a written document along with the agency's official answers. The questions and answers must then be issued as an amendment to the RFP (as above). As the agency needs time to prepare the amendment and distribute it, the Proposers' conference should not be held less than three weeks before the deadline for proposals. After the agency distributes the answers, Proposers should be given a sufficient amount of time to incorporate any new information into their proposals.

At the agency's option, attendance at the conference may be mandatory or optional. If mandatory, Proposers who do not attend are automatically disqualified. Mandatory attendance must be clearly stated in the legal notice and the RFP. Be advised that such a requirement may impose unacceptable time or resource demands on Proposers.

As holding a conference can be expensive and time-consuming for an agency and Proposers, one is not held unless an RFP is especially complicated or other reasons warrant it.

*Possible reasons for holding a conference:* 

- *Site Visit.* Is an on-site viewing necessary for Proposers to understand the project? This is typically a project where location or quality of the facility is a factor.
- *Reinforcement*. Is it necessary to reinforce certain requirements of the RFP, such as the need for confidentiality or ethical behavior?
- Follow-up Questions. A conference allows Proposers to immediately ask follow-up questions in response to the agency's answers.

Possible reasons for not holding a conference:

• Expense for Agency. The time and effort necessary to prepare Team members to answer questions at the conference may be considerable. The conference also requires getting a venue, setting up, arranging for a court recorder or other means of recording the event, transcribing the questions, and preparing written answers.

- Expense for Proposers. Potential Proposers will incur travel expenses and lost work time by attending a conference. Smaller organizations may regard this expense as a barrier to competition.
- *Maintaining Competition*. Key to maintaining a competitive marketplace is to have each Proposer develop an independent response to the RFP. Having Proposers gather at a conference and be exposed to information about one another's proposals may diminish the agency's ability to get the best possible proposals.
- *Confusion*. Even though the written answers will govern the RFP, verbal answers given during a Proposers' conference may create confusion if the answers are later modified in the written responses.
- *Prejudicial Impressions*. Based on the questions asked and the demeanor of the Proposers attending the conference, there is potential for the Screening Committee to form inappropriate impressions of potential Proposers and their proposals before any actual proposals are submitted.

If the agency decides to hold a conference, its location, time, and date must be announced in the RFP. Two deadlines for questions are recommended. The first deadline is before the conference, so that the agency can give verbal answers at the conference based on actual questions. The second deadline is three or more business days after the conference, when potential Proposers are given the opportunity to ask follow-up questions. Both deadlines must be announced in the RFP.

The conference should be conducted in a structured, professional manner. It is the agency's responsibility to set the agenda and the tone of the proceedings. The agenda should be carefully structured to cover all the issues important to the Proposers and the agency. The agency should come to the conference sufficiently prepared to answer as many questions as possible about the RFP. Team members should not attempt to answer questions that need further discussion or research. Nor should they exceed the limits of their authority when answering questions.

It is necessary that the questions posed at the conference be accurately recorded (through an audio or video recording or handwritten notes). The questions asked at the conference must be answered in writing after the conference. The conference attendees need to understand that oral answers to their questions are tentative and unofficial. Only written answers are legally binding on the RFP. For this reason, after the conference, the agency must prepare a written document (called an amendment) containing the "official" and "legally binding" answers to the questions asked. It is advisable to have an attendance roster to collect the attendees' names, the companies represented, and contact information. This will enable the agency to distribute amendments to all those in attendance.

## X. Reference Check Form

This sample document is provided for illustrative purposes only. Complicated or high-cost PSAs require greater diligence and, therefore, a more comprehensive reference check form. The reference check form may be modified to meet an agency's requirements.

SFP Title:				RFP No
				Telephone:
Date and Time:	Interviewer:			
. Proposer's ab Excellent Explain:	Good	Fair		
Excellent	Good	Fair	ch and integrity Poor	y in performance.
Excellent	Good	Fair	Poor	rnal controls, use of staff).
. Proposer's int Excellent		skills (comi Fair		dership, diligence).
. Are you awar Yes (Explain)			complaints agai	inst the Proposer?
. Were there ar	y significan	t achievem	ents by the Pro	poser?
•	hire or recor		hiring of this F	Proposer?
	4			
. Additional co	mments			

### Y. Meetings with Proposers

If any demonstrations, interviews, presentations, or site visits are contemplated, the RFP must announce that these meetings with Proposers may be part of the review process. Such meetings are time-consuming, but may provide valuable information for certain types of RFPs. When deciding whether to include any of these meetings, the Team needs to consider scenarios such as the following:

- Does the RFP involve a new or complex service? Would a *presentation* help the Screening Committee understand how such a service would be delivered?
- Does the RFP involve the use of special equipment or software? Would a *demonstration* help the Screening Committee judge its operation and suitability?
- Are the qualifications of the future Contractor critically important to the project's success? Would a face-to-face *interview* help the Screening Committee ascertain the ability of a Proposer to meet the agency's requirements?
- Does a Proposer currently provide the same or similar service in another jurisdiction? Would a *site visit* help the Screening Committee evaluate the Proposer's current performance and ability to replicate the service?

The only reason for holding a meeting is to gain a fuller understanding of the proposals. If the Screening Committee decides that such a meeting would assist in this way, ground rules for the meeting should be established in advance.

#### Examples of Ground Rules:

- The Process Advisor and Technical Advisors may attend meetings with Proposers and may directly ask them questions.
- Proposers must not be permitted to modify or supplement their proposals during the meeting.
- Site visits should include all members of the Screening Committee and each member should take part in all scheduled site visits.
- The Screening Committee and Advisors must not receive anything of value from Proposers, no matter how small. If, for example, food is provided during a site visit as a matter of convenience, anyone representing the agency's interests must pay the cost of the food on the spot.
- During meetings with Proposers, Committee members and Advisors should guard their speech and especially avoid making any judgmental comments (whether favorable or unfavorable) or comparisons of proposals or Proposers.
- Demonstrations should compare "apples to apples"—where each Proposer is asked to perform the same scripted set of tasks.

• For interviews and presentations, Proposers should be given the same amount of time and should be asked the same scripted set of questions. Additional questions may be tailored to each Proposer, depending on what the Screening Committee needs to know in order to clarify the proposal.

In short, the ground rules should be designed to preserve the integrity of the review process and to treat all Proposers fairly and equally. The Screening Committee should think through how the meeting will be conducted and, perhaps more importantly, how the members will conduct themselves when face-to-face with Proposers.

# Z. About Surety Bonds

A *surety bond* is an agreement involving a bond company ("surety") and the Contractor ("principal"), where the State agency is the beneficiary ("obligee"). The Contractor purchases the bond, but its purpose is to protect the interests of the agency. The bond guarantees that the terms and conditions of the contract will be satisfied.

Some State contracts may warrant a surety bond. For assistance in determining whether a bond is necessary to protect the interests of the agency, the agency should consult with its legal counsel or the AG's office. Additional assistance may be obtained from the Director of Insurance and Risk Management, State Insurance and Risk Management Board, 55 Elm Street, Room 208, Hartford, Connecticut 06106.

A *performance bond* is one such type, whereby the Contractor guarantees completion of the contract within the set terms and conditions. In the event of a default by the Contractor, the surety may itself assume the Contractor's responsibilities or it may engage another entity to complete the guaranteed work. Another option is for the surety to forfeit the monetary value of the bond to the State agency as liquidated damages. The agency then finds a different Contractor to provide the service. A *payment bond* is another type, whereby the surety guarantees payment to any person who furnished labor, materials, equipment or supplies related to performance of the contract, thus leaving the project lien free.

The agency should require a bond only after carefully considering the implications. The premium rate for a bond varies, depending upon the contract cost, type of work to be performed, the strength of the Contractor, and the surety company. The rate can range from 1% to 4% of the contract's cost. The Proposers will undoubtedly factor the bond's cost into their proposals (and the agency will pay for it in the end). Furthermore, in actual practice, bonds are infrequently called for enforcement. If enforcement does occur, the agency should be prepared to accept the associated administrative burdens, legal proceedings, and potential delays in service delivery.

## **ATTACHMENTS**

#### **AA.PSA Statutes**

Title 4. Management of State Agencies Chapter 55A. Consultants and Personal Service Agreements Part II. Personal Service Agreements

Current through 2003 January Reg. Sess., June 30 Sp. Sess. and Sept. 8 Sp. Sess.

## § 4-212. Definitions

As used in sections 4-212 to 4-219, inclusive:

- (1) "Competitive negotiation" means a procedure for contracting for services in which (A) proposals are solicited from qualified persons, firms or corporations by a request for proposals and (B) changes may be negotiated in proposals and prices after being submitted.
- (2) "Personal service contractor" means any person, firm or corporation not employed by the state, who is hired by a state agency for a fee to provide services to the agency. The term "personal service contractor" shall not include (A) a person, firm or corporation providing "contractual services", as defined in section 4a-50, to the state, (B) a "consultant", as defined in section 4b-55, (C) a "consultant", as defined in section 13b-20b, providing services to the Department of Transportation, (D) an agency of the federal government, of the state or of a political subdivision of the state, or (E) consultant services for information and telecommunications systems authorized under subdivision (5) of subsection (c) of section 4d-2.
- (3) "Personal service agreement" means a written agreement defining the services or end product to be delivered by a personal service contractor to a state agency, excluding any agreement with a personal service contractor that the state accounting manual does not require to be submitted to the Comptroller.
  - (4) "Secretary" means the Secretary of the Office of Policy and Management.
- (5) "State agency" means a department, board, council, commission, institution or other agency of the Executive Department of the state government.

## § 4-213. Personal service agreement required when hiring personal service contractor

On and after July 1, 1994, no state agency may hire a personal service contractor without executing a personal service agreement with such contractor.

# § 4-214. Personal service agreements having cost of not more than twenty thousand dollars and term of not more than one year. State agency reports

- (a) Each personal service agreement executed on or after July 1, 1994, and having a cost of not more than twenty thousand dollars and a term of not more than one year shall be based, when possible, on competitive negotiation or competitive quotations.
- (b) Not later than thirty days after the end of each six-month period, beginning with the six-month period ending on December 31, 1994, each state agency shall submit a report to the secretary indicating (1) for each personal service agreement described in subsection (a) of this section that is executed during the six-month period, the name of the personal service contractor, a description of the services to be provided, the term and cost of the agreement and the method of selecting the contractor and (2) for each personal service agreement described in said subsection (a) that is in effect during the six-month period, the amount of all payments made during the six-month period to the contractor, by fund, and the amount of any federal or private funds allocated for such payments.

# § 4-215. Personal service agreements having cost of more than twenty thousand dollars but not more than fifty thousand dollars and term of not more than one year

- (a) Each personal service agreement executed on or after July 1, 1994, and having a cost of more than twenty thousand dollars but not more than fifty thousand dollars and a term of not more than one year shall be based on competitive negotiation or competitive quotations, unless the state agency purchasing the personal services determines that a sole source purchase is required and applies to the secretary for a waiver from such requirement and the secretary grants the waiver. Not later than March 1, 1994, the secretary shall adopt guidelines for determining the types of services that may qualify for such waivers. The qualifying services shall include, but not be limited to, (1) services for which the cost to the state of a competitive selection procedure would outweigh the benefits of such procedure, as documented by the state agency, (2) proprietary services, (3) services to be provided by a contractor mandated by the general statutes or a public or special act, and (4) emergency services, including services needed for the protection of life or health.
- (b) Each state agency shall submit the following information to the secretary concerning each proposed personal service agreement described in subsection (a) of this section, at the same time that it submits the agreement to the Commissioner of Administrative Services or the Attorney General: The name of the personal service contractor, a description of the services to be provided, the term and cost of the agreement, the method of selecting the contractor, the state fund from which the contractor will be paid and whether any federal or private funds will be allocated for such payments.

# § 4-216. Personal service agreements having cost of more than fifty thousand dollars or term of more than one year

(a) No state agency may execute a personal service agreement having a cost of more than fifty thousand dollars or a term of more than one year, without the approval of the secretary. A state agency may apply for an approval by submitting the following information to the secretary: (1) A description of the services to be purchased and the need for such services; (2) an estimate of the cost of the services and the term of the agreement; (3) whether the

services are to be on-going; (4) whether the state agency has contracted out for such services during the preceding two years and, if so, the name of the contractor, term of the agreement with such contractor and the amount paid to the contractor; (5) whether any other state agency has the resources to provide the services; (6) whether the agency intends to purchase the services by competitive negotiation and, if not, why; and (7) whether it is possible to purchase the services on a cooperative basis with other state agencies. The secretary shall approve or disapprove an application within fifteen business days after receiving it and any necessary supporting information, provided if the secretary does not act within such fifteen-day period the application shall be deemed to have been approved. The secretary shall immediately notify the Auditors of Public Accounts of any application which the secretary receives for approval of a personal services agreement for audit services and give said auditors an opportunity to review the application during such fifteen-day period and advise the secretary as to whether such audit services are necessary and, if so, could be provided by said auditors.

(b) Each personal service agreement having a cost of more than fifty thousand dollars or a term of more than one year shall be based on competitive negotiation or competitive quotations, unless the state agency purchasing the personal services applies to the secretary for a waiver from such requirement and the secretary grants the waiver in accordance with the guidelines adopted under subsection (a) of section 4-215.

## § 4-217. Standards. Written procedures. Requests for proposals

- (a) Not later than March 1, 1994, the Secretary of the Office of Policy and Management shall establish standards for state agencies to follow in entering into personal service agreements. The standards shall include, but not be limited to, provisions for: (1) Evaluating the need to use a personal service agreement, (2) developing a request for proposals, (3) advertising for personal service contractors, (4) evaluating submitted proposals, (5) selecting a personal service contractor, including compliance with section 4a-60g, (6) systematically monitoring and evaluating personal service contractor performance, (7) documenting the entire process for selecting and managing personal service contractors and (8) carrying out any other aspect of such process.
- (b) Not later than May 1, 1994, each state agency shall: (1) Establish written procedures for implementing the standards established by the secretary under subsection (a) of this section, and (2) submit such procedures to the secretary for his approval. If the secretary disapproves an agency's procedures he shall return the procedures to the agency with recommendations for revisions. On and after July 1, 1994, no state agency may execute a personal service agreement unless the secretary has approved procedures established by the agency under this section.
- (c) A request for proposals issued under section 4-214, 4-215 or 4-216 shall include, but not be limited to, an outline of the work to be performed, the required minimum qualifications for the personal service contractor, criteria for review of proposals by the state agency, the format for proposals and the deadline for submitting proposals. Each state agency which prepares a request for proposals shall establish a screening committee to evaluate the proposals submitted in response to the request for proposals. The screening committee shall rank all proposals in accordance with the criteria set forth in the request for

proposals and shall submit the names of the top three Proposers to the executive head of the agency, who shall select the personal service contractor from among such names.

## § 4-218. Reports to the secretary concerning personal service agreements

- (a) Not later than thirty days after the end of each six-month period, beginning with the six-month period ending on December 31, 1994, each contracting agency shall submit a report to the secretary indicating (1) for each personal service agreement executed during such six-month period with a person, firm or corporation providing "contractual services", as defined in section 4a-50, to the state, a "consultant", as defined in section 4b-55, or an agency of the federal government, of the state or of a political subdivision of the state, (A) the name of the person, firm or corporation, (B) a description of the services to be provided, (C) the term and cost of the agreement and (D) the method of selecting the person, firm or corporation and (2) for each such agreement either executed or otherwise in effect during the six-month period, (A) the amount of all payments made during the six-month period to the person, firm or corporation, by fund, and (B) the amount of any federal or private funds allocated for such payments. No state agency utilizing contractual services hired by using a purchase order approved and committed by the State Comptroller shall be required to submit a report to the secretary.
- (b) Not later than thirty days after the end of each six-month period, beginning with the six-month period ending on December 31, 1995, the Department of Transportation shall submit a report to the secretary indicating (1) for each agreement executed during such sixmonth period with a "consultant", as defined in section 13b-20b, or an agency of the federal government, of the state or of a political subdivision of the state, (A) the name of the person, firm or corporation, (B) a description of the services to be provided, (C) the term and cost of the agreement and (D) the method of selecting the person, firm or corporation and (2) for each such agreement either executed or otherwise in effect during the six-month period, (A) the amount of all payments made during the six-month period to the person, firm or corporation, by fund, and (B) the amount of any federal or private funds allocated for such payments.
- (c) Not later than September 1, 1995, and annually thereafter, the secretary shall submit a report to the General Assembly summarizing information received pursuant to subsection (b) of section 4-214, subsection (b) of section 4-215, subsection (a) of section 4-216, and subsections (a) and (b) of section 4-218 for the preceding fiscal year.

### § 4-219. Amendments to personal service agreements

No state agency may, without the approval of the secretary, execute (1) an amendment to a personal service agreement, which agreement has an original cost of more than fifty thousand dollars, or (2) an amendment to any other personal service agreement, which amendment (A) has a cost of one hundred per cent or more of the cost of the original agreement, (B) increases the cost of the agreement to more than fifty thousand dollars, (C) extends the terms of the agreement beyond a one-year period or (D) is the second or subsequent amendment to the agreement. The secretary shall approve or disapprove a proposed amendment within fifteen business days after receiving it and any necessary supporting information, provided if the secretary does not act within such fifteen-day period the application shall be deemed to have been approved.

#### BB. Public Act No. 04-245



Substitute House Bill No. 5025

Public Act No. 04-245

### AN ACT STRENGTHENING ETHICS LAWS CONCERNING FINANCIAL DISCLOSURE, GIFTS AND STATE CONTRACTORS

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 1-83 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2004*):

- (a) (1) All state-wide elected officers, members of the General Assembly, department heads and their deputies, members of the Gaming Policy Board, the executive director of the Division of Special Revenue within the Department of Revenue Services, members or directors of each quasi-public agency, members of the Investment Advisory Council, state marshals and such members of the Executive Department and such employees of quasi-public agencies as the Governor shall require, shall file, under penalty of false statement, a statement of financial interests for the preceding calendar year with the commission on or before the May first next in any year in which they hold such a position. Any such individual who leaves his or her office or position shall file a statement of financial interests covering that portion of the year during which such individual held his or her office or position. The commission shall notify such individuals of the requirements of this subsection within thirty days after their departure from such office or position. Such individuals shall file such statement within sixty days after receipt of the notification.
- (2) Each state agency, department, board and commission shall develop and implement, in cooperation with the Ethics Commission, an ethics statement as it relates to the mission of the agency, department, board or commission. The executive head of each such agency, department, board or commission shall be directly responsible for the development and enforcement of such ethics statement and shall file a copy of such ethics statement with the Department of Administrative Services and the Ethics Commission.
- (b) (1) The statement of financial interests, except as provided in subdivision (2) of this subsection, shall include the following information for the preceding calendar year in regard to the individual required to file the statement and the individual's spouse and dependent children residing in the individual's household: (A) The names of all businesses with which associated; (B) the category or type of all sources of income in excess of one thousand

dollars, without specifying amounts of income; (C) the name of securities in excess of five thousand dollars at fair market value owned by such individual, spouse or dependent children or held in the name of a corporation, partnership or trust for the benefit of such individual, spouse or dependent children; (D) the existence of any known blind trust and the names of the trustees: (E) all real property and its location, whether owned by such individual, spouse or dependent children or held in the name of a corporation, partnership or trust for the benefit of such individual, spouse or dependent children; (F) the names and addresses of creditors to whom the individual, the individual's spouse or dependent children, individually, owed debts of more than ten thousand dollars; [and] (G) any leases or contracts with the state held or entered into by the individual or a business with which he or she was associated; and (H) a description of any partnership, joint ownership or similar business affiliation between (i) a business included under subparagraph (A) of this subdivision with which the individual filing the statement, the individual's spouse or a dependent child of the individual is associated, and (ii) a lobbyist, a person that the individual filing the statement knows or has reason to know is doing business with or seeking to do business with the state or is engaged in activities that are directly regulated by the department or agency in which the individual is employed, or a business with which such lobbyist or person is associated.

- (2) The statement of financial interests filed by state marshals shall include only amounts and sources of income earned in their capacity as state marshals.
- (c) The statement of financial interests filed pursuant to this section shall be a matter of public information, except the list of names, filed in accordance with subparagraph (F) of subdivision (1) of subsection (b) of this section shall be sealed and confidential and for the use of the commission only after a complaint has been filed under section 1-82 and such complaint has been determined by a vote of the commission to be of sufficient merit and gravity to justify the unsealing of such list or lists and not open to public inspection unless the respondent requests otherwise. If the commission reports its findings to the Chief State's Attorney in accordance with subsection (c) of section 1-88, the commission shall turn over to the Chief State's Attorney such relevant information contained in the statement as may be germane to the specific violation or violations or a prosecutorial official may subpoena such statement in a criminal action. Unless otherwise a matter of public record, the Ethics Commission shall not disclose to the public any such subpoena which would be exempt from disclosure by the issuing agency.
- (d) Any individual who is unable to provide information required under the provisions of subdivision (1) of subsection (b) of this section by reason of impossibility may petition the commission for a waiver of the requirements.
- Sec. 2. (NEW) (Effective from passage) As used in sections 2 to 4, inclusive, of this act:
- (1) "Gift" has the same meaning as provided in section 1-79 of the general statutes, except that the exclusion in subdivision (12) of subsection (e) of said section 1-79 for a gift for the celebration of a major life event shall not apply;
- (2) "Quasi-public agency", "public official" and "state employee" have the same meanings as provided in section 1-79 of the general statutes;

(3) "State agency" means any office, department, board, council, commission, institution or other agency in the executive, legislative or judicial branch of state government;

- (4) "Large state contract" means an agreement or a combination or series of agreements between a state agency or a quasi-public agency and a person, firm or corporation, having a total cost to such state agency or quasi-public agency of more than five hundred thousand dollars in a calendar or fiscal year, for (A) a project for the construction, alteration or repair of any public building or public work, (B) services, including, but not limited to, consulting and professional services, (C) the procurement of supplies, materials or equipment, (D) a lease, or (E) a licensing arrangement. The term "large state contract" shall not include a contract between a state agency or a quasi-public agency and a political subdivision of the state;
- (5) "Principals and key personnel" means officers, directors, shareholders, members, partners and managerial employees; and
- (6) "Participated substantially" means participation that is direct, extensive and substantive, and not peripheral, clerical or ministerial.
- Sec. 3. (NEW) (*Effective from passage*) (a) Between the effective date of this section and June 30, 2006, no state agency or quasi-public agency shall execute a large state contract unless the state agency or quasi-public agency obtains:
- (1) An affidavit from each person, firm or corporation submitting a bid or proposal for such contract. Each such affidavit shall be submitted with the bid or proposal and shall be signed by the official of the person, firm or corporation that submits such bid or proposal. Such affidavit shall attest to whether or not (A) such person, firm, corporation, (B) any principals and key personnel of the person, firm or corporation, who participated substantially in preparing the bid or proposal, or (C) any agent of such person, firm, corporation or principals and key personnel, who participated substantially in preparing the bid or proposal, provided a gift during the two-year period preceding the submission of such bid or proposal, to (i) any public official or state employee of the state agency or quasi-public agency soliciting bids or proposals for the contract, who participated substantially in the preparation of the bid solicitation or request for proposals for the contract, or (ii) any public official or state employee of any other state agency, who has supervisory or appointing authority over such state agency or quasi-public agency. The affidavit shall also attest that no such principals and key personnel of the person, firm or corporation or agent of such person, firm, corporation or principals and key personnel knows of any action by the person, firm or corporation to circumvent the requirements of this subdivision by providing for any other principals and key personnel, official, employee or agent of the person, firm or corporation to provide a gift to any such public official or state employee. If any gift described in this subdivision was provided, the affidavit shall include the name of the recipient, a description of the gift and the value and approximate date of the gift;
- (2) An affidavit from the person, firm or corporation awarded the contract, at the time the contract is executed, and signed by the official of the person, firm or corporation executing the contract. The affidavit shall attest to whether or not gifts were provided by (A) such person, firm, corporation, (B) any principals and key personnel of the person, firm or

corporation, who participated substantially in preparing the bid or proposal or the negotiation of the contract, or (C) any agent of such person, firm, corporation or principals and key personnel, who participated substantially in preparing the bid or proposal or the negotiation or award of the contract, between the date of the affidavit under subdivision (1) of this subsection and the date of execution of the contract, to (i) any public official or state employee of the state agency or quasi-public agency soliciting bids or proposals for the contract, who participated substantially in the preparation of the bid solicitation or request for proposals for the contract or the negotiation or award of the contract, or (ii) any public official or state employee of any other state agency, who has supervisory or appointing authority over such state agency or quasi-public agency. If any such gift was provided, the affidavit shall include the name of the recipient, a description of the gift and the value and approximate date of the gift; and

- (3) A certification by the official or employee of such state agency or quasi-public agency who is authorized to execute said contract that the selection of the most qualified person, firm or corporation was not the result of collusion, the giving of a gift or the promise of a gift, compensation, fraud or inappropriate influence from any person.
- (b) Each affidavit or certification required under subsection (a) of this section shall be sworn as true to the best knowledge and belief of the person signing the affidavit, subject to the penalties of false statement.
- (c) No municipal official or employee shall be required to submit an affidavit under subdivision (1) or (2) of subsection (a) of this section.
- (d) Any bidder or proposer that does not submit an affidavit required under subdivision (1) or (2) of subsection (a) of this section shall be disqualified and the state agency or quasi-public agency shall award the contract to the next highest ranked proposer or the next lowest responsible qualified bidder or seek new bids or proposals.
- (e) Notwithstanding the provisions of subsection (a) of this section, a person, firm or corporation seeking a large state contract between July 1, 2004, and June 30, 2006, which submits a gift affidavit in accordance with the policy adopted by the Attorney General on January 8, 2004, shall be deemed to comply with the requirements of subdivisions (1) and (2) of subsection (a) of this section.
- Sec. 4. (NEW) (*Effective from passage*) (a) On and after July 1, 2006, no state agency or quasi-public agency shall execute a large state contract unless the state agency or quasi-public agency obtains the written certifications described in this section. Each such certification shall be sworn as true to the best knowledge and belief of the person signing the certification, subject to the penalties of false statement.
- (b) The official or employee of such state agency or quasi-public agency who is authorized to execute said contract shall certify that the selection of the most qualified or highest ranked person, firm or corporation was not the result of collusion, the giving of a gift or the promise of a gift, compensation, fraud or inappropriate influence from any person.

(c) The official of the person, firm or corporation awarded the contract, who is authorized to execute the contract, shall certify:

- (1) That no gifts were made between the date that the state agency or quasi-public agency began planning the project, services, procurement, lease or licensing arrangement covered by the contract and the date of execution of the contract, by (A) such person, firm, corporation, (B) any principals and key personnel of the person, firm or corporation, who participated substantially in preparing the bid or proposal or the negotiation of the contract, or (C) any agent of such person, firm, corporation or principals and key personnel, who participated substantially in preparing the bid or proposal or the negotiation of the contract, to (i) any public official or state employee of the state agency or quasi-public agency soliciting bids or proposals for the contract, who participated substantially in the preparation of the bid solicitation or request for proposals for the contract or the negotiation or award of the contract, or (ii) any public official or state employee of any other state agency, who has supervisory or appointing authority over such state agency or quasi-public agency;
- (2) That no such principals and key personnel of the person, firm or corporation, or agent of such person, firm or corporation or principals and key personnel, knows of any action by the person, firm or corporation to circumvent such prohibition on gifts by providing for any other principals and key personnel, official, employee or agent of the person, firm or corporation to provide a gift to any such public official or state employee; and
- (3) That the person, firm or corporation made the bid or proposal without fraud or collusion with any person.
- (d) Any bidder or proposer that does not make the certifications required under subsection (c) of this section shall be disqualified and the state agency or quasi-public agency shall award the contract to the next highest ranked proposer or the next lowest responsible qualified bidder or seek new bids or proposals.
- (e) Each state agency and quasi-public agency shall include in the bid specifications or request for proposals for a large state contract (1) the date that the state agency or quasi-public agency began planning the project, services, procurement, lease or licensing arrangement to be covered by the contract, and (2) a notice of the certification requirements of subsections (c) and (d) of this section.
- Sec. 5. Subsection (m) of section 1-84 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):
- (m) No public official or state employee shall knowingly accept, directly or indirectly, any gift, as defined in subsection (e) of section 1-79, from any person the official or employee knows or has reason to know: (1) Is doing business with or seeking to do business with the department or agency in which the official or employee is employed or (2) is engaged in activities which are directly regulated by such department or agency. No person shall knowingly give, directly or indirectly, any gift or gifts in violation of this provision. For the purposes of this subsection, the exclusion to the term "gift" in subdivision (12) of subsection (e) of section 1-79 for a gift for the celebration of a major life event shall not apply.

Sec. 6. Subsection (m) of section 1-84 of the general statutes, as amended by section 5 of public act 03-215, and section 146 of public act 03-6 of the June 30 special session, is repealed and the following is substituted in lieu thereof (*Effective October 1, 2004*):

(m) No public official or state employee shall knowingly accept, directly or indirectly, any gift, as defined in subsection (e) of section 1-79, from any person the official or employee knows or has reason to know: (1) Is doing business with or seeking to do business with the department or agency in which the official or employee is employed; (2) is engaged in activities which are directly regulated by such department or agency; or (3) is prequalified under section 3 of [this act] <u>public act 03-215</u>. No person shall knowingly give, directly or indirectly, any gift or gifts in violation of this provision. For the purposes of this subsection, the exclusion to the term "gift" in subdivision (12) of subsection (e) of section 1-79 for a gift for the celebration of a major life event shall not apply.

Sec. 7. (NEW) (*Effective from passage*) The State Ethics Commission shall develop a plain language summary of state ethics laws concerning (1) persons, firms and corporations submitting bids or proposals for state contracts, and (2) state contractors. The commission shall publish said summary on the commission's web site.

#### CC. Governor M. Jodi Rell's Executive Order No. 1

STATE OF CONNECTICUT BY HER EXCELLENCY M. JODI RELL GOVERNOR EXECUTIVE ORDER NO. 1

WHEREAS, public office is a public trust and the Office of the Governor is committed to restoring public confidence; and

WHEREAS, the State of Connecticut has long been committed to establishing rules and regulations to provide safeguards to support the highest standards of public integrity and ethical principles; and

WHEREAS, transactions relating to the expenditure of public funds require the highest degree of public trust; and

WHEREAS, all public servants should seek to adhere to a high standard of ethical conduct when performing state business; and

WHEREAS, each and every public servant should strive to avoid both actual conflict of interests and any appearance of impropriety;

NOW, THEREFORE, I, M. Jodi Rell, Governor of the State of Connecticut, by virtue of the authority vested in me by the Constitution and Statutes of the State, do hereby ORDER and DIRECT:

1. There shall be a **Special Counsel For Ethics Compliance** who shall be appointed by and report directly to the Governor. Such Special Counsel for Ethics Compliance shall: advise the Governor on public integrity issues; advise the Executive Branch, staff of the Office of the Governor and all agency heads, on ethics laws and any ethics guidelines adopted by the Governor; bring directly to the Governor's attention any conduct or business practices that, in the opinion of the Special Counsel, may violate current ethics laws or are inconsistent with ethics guidelines adopted by the Governor or give the appearance of unethical conduct; review all proposed legislation or regulations involving ethics, campaign finance law, freedom of information, and procurement procedures and advise the Governor on the impact of such legislation, if adopted; serve as the Office of the Governor's liaison to the State Ethics Commission, State Elections Enforcement Commission, the Freedom of Information Commission, and the General Assembly regarding initiatives related to ethics, the state's electoral process, and freedom of information issues; recommend legislative initiatives following a comprehensive examination of existing laws, regulations, policies and procedures relating to issues of public integrity; ensure that the Governor's guidelines and the advice of the Special Counsel are consistent with the intent of said laws as interpreted by the respective agency or office charged with their enforcement; work in cooperation with the appropriate agencies regarding any matter involving corruption, unethical practices, mismanagement, gross waste of funds, or any alleged abuse of public authority; coordinate efforts with the Auditors of Public Accounts to cause ethics compliance to be part of the state audit process.

- 2. Within sixty (60) days from the date of this Executive Order, the Special Counsel For Ethics Compliance shall conduct an **Ethics Compliance Audit** to identify potential improvements in ethics laws, training, compliance monitoring, and enforcement. The Special Counsel For Ethics Compliance shall report the results of the Ethics Compliance Audit to the Governor.
- 3. Within ninety (90) days from the date of this Executive Order, the Special Counsel For Ethics Compliance shall present to the Governor a comprehensive **Ethics Compliance Plan** that will mandate measures that each agency of the Executive Branch must adopt in order to foster compliance with state ethics laws.
- 4. Pending completion and approval of the Ethics Compliance Plan, the Special Counsel For Ethics Compliance shall promptly develop a summary of the requirements of the state ethics laws and regulations. Such summary shall be provided to each and every new state employee prior to the commencement of state service. Such individuals shall sign a statement acknowledging receipt of such summary and agree to comply with the requirements of the state ethics laws and this Executive Order.
- 5. The Special Counsel For Ethics Compliance shall, in conjunction with the state Ethics Commission, develop and implement an ethics training program for Executive Branch employees and public officials.
- 6. Within 30 days of this Order, all state employees and public officials who have responsibility for the review, award, or monitoring of state contracts must file a statement of financial interests with the State Ethics Commission under the terms provided for by Conn. Gen. Stat. § 1-83.

- 7. The Special Counsel For Ethics Compliance, in conjunction with the State Ethics Commission, shall establish guidelines for the reporting, acceptance, and accounting of all gifts to the state, as defined by Conn. Gen. Stat. § 1-79(e)(5).
- 8. In addition to the disclosure requirements of Public Act 04-245, those who file affidavits required by that Public Act shall disclose in those affidavits all contributions made to campaigns of candidates for state-wide public office or the General Assembly. A contractor who is awarded a large state contract, as defined in Public Act 04-245, shall update the affidavit required by that Public Act and this Executive Order on an annual basis.
- 9. The Special Counsel For Ethics Compliance shall serve as a Director for The Governor's Residence Conservancy.

That this Order shall take effect immediately.

Dated at Hartford, Connecticut, this first day of July 2004.

M. JODI RELL Governor

#### **DD.PSA Forms**

The online versions of the PSA forms, which an agency must use to submit requests, are available on OPM's website at http://WEB ADDRESS.

#### Instructions:

- 1. Find the appropriate form on OPM's website.
- 2. Click "Save As ..." to store the form on an agency's computer.
- 3. Complete all the required form fields and print.
- 4. Have the form signed by the appropriate authority.
- 5. Mail request to: Office of Policy and Management

Office of Finance – MS#55 FIN

450 Capitol Avenue Hartford, CT 06106

#### Description of Forms

- Request for Personal Service Agreement submitted when requesting a PSA with an anticipated cost of more than \$50,000 or an anticipated term of more than one year.
- Request for Waiver from Competitive Solicitation submitted when requesting a non-competitive PSA with an anticipated cost of more than \$20,000 (if the term of the agreement is one year or less), or an anticipated term of more than one year.
- Request for Non-Competitive Personal Service Agreement submitted when requesting a PSA with a cost of more than \$50,000 and fewer than three acceptable proposals have been received in response to an RFP.
- Request for Amendment submitted when requesting an amendment to an existing PSA.
- Personal Service Contractor Evaluation used to evaluate the performance of a Contractor performance within 60 days of contract completion. The completed form must be kept in the agency's project file for the contract.

#### **EE. Contract Compliance Documents**

The online versions of the Contract Compliance documents are available on CHRO's website at <a href="http://www.state.ct.us/chro/metapages/legalprot/CC-Forms.htm">http://www.state.ct.us/chro/metapages/legalprot/CC-Forms.htm</a>.

- Contract Compliance Notification to Bidders
- Acknowledgment of Contract Compliance Notification to Bidders
- Workforce Analysis Affirmative Action Report Form

Connecticut General Statutes, Title 4, Chapter 55a, Part II, Sections 212 thru 219, inclusive

http://www.cga.state.ct.us/2003/pub/Chap055a.htm



# Governor's Contracting Reform Task Force PERSONAL SERVICE AGREEMENTS (PSA) WORKING GROUP

August 5, 2004

11:00 a.m. - 4:00 p.m.

Conference Room 5A, Office of Policy and Management (OPM)
450 Capitol Avenue
Hartford, CT

#### **MEETING AGENDA**

Call to Order

Attendance/Introduction of Working Group Members

Review/Discussion of Working Group's Charge

Overview of Personal Service Agreements (PSAs)

- Statutory requirements
- OPM's standards
- Agency written procedures

OPM's Revised Standards - Status Report

User Agency Presentations // Perspectives

Issues List // Draft Recommendations

Timeline // Meeting Schedule // Reporting Deadlines

Other

Closing Remarks and Follow-up

Adjournment

### Preliminary Issues List

#### **GENERAL**

- Agency adherence to OPM's established standards for PSAs
- Training
- Implications of oversight board reviewing all PSAs
- Employee relations (re: ethics agreements, affidavits, assignment to RFP process, etc.)

#### PRE-APPROVAL PHASE

- Evaluating need for PSA // cost-benefit analysis
- Sole source contracts // waivers from competitive negotiation // pre-qualification process?
- Approval process for sole source contracts
- Status of PSA contractor: bona fide contractor or state employee?

#### **REQUEST FOR PROPOSAL PHASE**

- Drafting & design of RFP document
- Adherence to established standards for RFP process, especially for the review of proposals and selection of contractor
- Documentation of contractor selection process

#### **CONTRACTING PHASE**

- Agency need for legal counsel during contract negotiation
- Documentation of contract negotiation process
- \$3,000 threshold for contract review by AG's office
- Evaluation of contractor's performance
- Agency reporting to OPM // public access to contracting database

#### Brainstorming Issues List

- 1. Agencies lack adequate resources/capacity for contracting. Resources/capacity is defined as quality personnel, funding, and quality training.
- 2. PSAs are used for unintended purposes for reasons of expediency. Agencies put individuals on PSAs as a way to circumvent an agency's position count (limit).
- 3. Inferior (poorly written) RFPs result in inferior contracts. There is a lack of standardization/lack of "models" for repetitive types of contracts.
- 4. There is a lack of transparency in terms of capturing PSA data and making it available to the public. There is a problem with respect to the quality and accessibility of the data.
- <u>5.</u> There is no utilization review of PSAs, that is, an analysis of the data with respect to PSA use.
- 6. The current \$3,000 threshold for review by the AG's office is too low. It should be raised to \$20,000. The low threshold is stressing the system (in terms of people, time). Possible solution is post audit or use of templates.
- 7. There are delays in the review/approval process (at the AG's office, OPM, DAS). Agencies try to avoid/circumvent the PSA process by using "contractual services" process.
- <u>8.</u> There are several "carve outs" that are excluded from the current PSA process (e.g., DOIT, DOT, DPW). This points to a lack of uniformity in the system.
- 9. It is unclear under what conditions waivers are granted (or not).
- 10. It is unclear what the implications of having a "large contract review committee" would be. What would be the composition, skill set, timing, cost, and responsibilities of such a committee?
- 11. There is a lack of evaluation of contractors upon contract completion. This results in continuing to hire unsatisfactory contractors. One solution is to do progressive reviews during the contract period. (DOT has a model.)
- 12. Possible solution: increase the use of master contracts (such as the one DAS has for media services).
- 13. There is a lack of standardization in the way that the state purchases goods and services.
- 14. Possible solution: use of pre-qualification lists in order to "level the playing field" and allow more competition among service providers.

## SUMMARY FOR AUGUST 5, 2004 PSA WORKING GROUP MEETING

The meeting was called to order at 11:05 a.m. Present were Gareth Bye, Annmarie Cook, Kathy Brennan, Elise Kremer, Kevin Holland, Vicky Greene, Rick Melita, Anthony Lazzaro, Linda Yelmini, Rose McGovern, Tom Baziak, John Coroso, Jim Neil, Valerie Joyner, John Pavia, Dennis O'Brien, Christine Trimble, Gareth Bye, Wanda Dupuy, Andrew Roraback, Ann Nichols, Patrice Peterson, and Sherrill Klaiman.

#### I. ATTENDANCE/INTRODUCTIONS

All participants themselves and gave a quick background about themselves. Rick Melita left at the break and Patrice Peterson took his place at the meeting.

#### II. GROUND RULES

Attorney Bye emphasized the need to facilitate the proposed contracting process systematically. He emphasized the urgency of staying on the right course as the deadline for the preliminary draft is August 16 at which time it will be presented to the larger group, including Commissioner Jim Fleming and Senator DeFronzo.

#### III. HISTORY

Wanda Dupuy explained how we got to where we are today with competitive bids and competitive proposals and the current contracting process. Statutes began in 1989. Prior to that point, there were no standards in place. Secretary Ryan and a team at OPM have been developing revised standards for PSAs.

#### IV. MEETING

Participants generated a list of issues pertaining to PSA, including:

- Agencies lack adequate resources/capacity to engage in effective and efficient contracting process.
- <u>2.</u> PSAs are used by agencies for reasons of expediency and inappropriate purposes.
- <u>3.</u> Too many poorly drafted RFPs are being prepared and issued that result in inferior contracts.
- <u>4.</u> Agencies do not use enough standardized language for repetitive types of contracts.
- <u>5.</u> There is a lack of transparency (quality and accessibility) in terms of capturing PSA data and making it available to the public.
- 6. There are delays in the review/approval process (at the AG's office, OPM, DAS). Agencies try to avoid/circumvent the PSA process by using "contractual services" process.

- <u>7.</u> There are several "carve outs" that are excluded from the current PSA process (e.g., DOIT, DOT, DPW, UConn).
- 8. It is unclear under what conditions PSA waivers are granted (or not).
- 9. The rationale for having a "large contract review committee" has not been made and the concept as articulated has been poorly defined.
- 10. There is insufficient evaluation of contractors during the term of the contract and upon completion.
- 11. There is a lack of standardization in the way that the state purchases goods and services.
- 12. The new ethics requirements under Executive Order No. 1 and P.A. 04-245 will have implications for employee relations and work rules.
- 13. Agencies are not engaging in effective cost-benefit analysis in determining the need for a PSA.
- 14. Agencies are not sufficiently documenting the contract selection process.
- 15. Agencies do not have sufficient resources to negotiate and draft important and/or large State contracts.

#### V. ACTION ITEMS

All attendees were asked to review the fifteen (15) items that were listed on the board and to send all thoughts about same via email to Sherrill Klaiman, <a href="mailto:sherrill.klaiman@po.state.ct.us">sherrill.klaiman@po.state.ct.us</a>.

The next PSA Working Group meeting was scheduled for Wednesday, August 11, Room 2A at 9:00 a.m. at OPM, 450 Capitol Avenue in Hartford.

The meeting was adjourned at 2:45 p.m.

## SUMMARY FOR AUGUST 11, 2004 PSA WORKING GROUP MEETING

The meeting was called to order at 9:18a.m. Present were Gareth Bye, Annmarie Cook, Kathy Brennan, Elise Kremer, Kevin Holland, Vicky Greene, Anthony Lazzaro, Adam Dworkin, Rose McGovern, Tom Baziak, John Coroso, Jim Neil, Valerie Joyner, John Pavia, Wanda Dupuy, Andrew Roraback, Patrice Peterson, Gale Mattison, and Sherrill Klaiman.

#### I. MEETING

Participants discussed at great length the PRELIMINARY DRAFT and generated a list of issues pertaining to the draft, including how to order the identified issues in the report.

Also discussed were the following:

- Development of Report Summary section
- The transparency of the PSA process and how the system needs to be improved in order to be easily accessible to all members of the public.
- All participants agreed that there should be specific recommendations to the larger group
- The question arose: "Is there is a database in place, and Is CORE CT the
  electronic vehicle that we need?" One of the Core CT managers believed
  the Core system could provide the necessary reports, but the accuracy
  of such reports depended on the input function
- Ethics
- Standardization
- Improving the recording function
- Tightening PSA rules (i.e., issuing new OPM standards manual)
- Training
- Centralized model
- Contract Oversight Committee
- No formal study and/or evaluation of the issues performed
- There has not been reported cases of wide-spread corruption but isolated incidents of problems. The majority of PSA rules are at this time adhered to.

Not all issues can be tackled at this time due to lack of adequate time needed.

#### II. ACTION ITEMS

All attendees were asked to send any and all comments prior to 12 Noon on Friday, August 13, 2004 via email to Sherrill Klaiman, <a href="mailto:sherrill.klaiman@po.state.ct.us">sherrill.klaiman@po.state.ct.us</a>.

The next tentative PSA Working Group meeting scheduled for Friday, August 12, was cancelled.

The meeting was adjourned at 11:35 a.m.